

Robert C. Moest, Of Counsel, SBN 62166
THE BROWN LAW FIRM, P.C.
2530 Wilshire Boulevard, Second Floor
Santa Monica, California 90403
Telephone: (310) 915-6628
Facsimile: (310) 915-9897
Email: RMoest@aol.com

Counsel for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

TERRY BASSETT JR., derivatively on
behalf of TATTOOED CHEF, INC.

Plaintiff,

Case No.:

V.

DEMAND FOR JURY TRIAL

SALVATORE GALLETTI,
STEPHANIE DIECKMANN, DAVID
BORIS, PAULA CIARAMITARO,
JENNIFER FELLNER, EDWARD
GELFAND, RYAN OLOHAN, MARIE
QUINTERO-JOHNSON, BRYAN
ROSENBERG, and DANIEL
WILLIAMSON,

Defendants,

and

TATTOOED CHEF, INC.

Nominal Defendant

VERIFIED SHAREHOLDER DERIVATIVE COMPLAINT

INTRODUCTION

Plaintiff Terry Bassett Jr. (“Plaintiff”), by Plaintiff’s undersigned attorneys, derivatively and on behalf of Nominal Defendant Tattooed Chef, Inc. (“Tattooed Chef” or the “Company”), files this Verified Shareholder Derivative Complaint against Salvatore Galletti (“Galletti”), Stephanie Dieckmann (“Dieckmann”), David Boris (“Boris”), Paula Ciaramitaro (“Ciaramitaro”), Jennifer Fellner (“Fellner”), Edward Gelfand (“Gelfand”), Ryan Olohan (“Olohan”), Marie Quintero-Johnson (“Quintero-Johnson”), Bryan Rosenberg (“Rosenberg”), and Daniel Williamson (“Williamson”) (collectively, the “Individual Defendants,” and together with Tattooed Chef, the “Defendants”) for breaches of their fiduciary duties as controlling shareholder, directors and/or officers of Tattooed Chef, unjust enrichment, abuse of control, gross mismanagement, waste of corporate assets, violations of Section 14(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), and for contribution under Sections 10(b) and 21D of the Exchange Act. As for Plaintiff’s complaint against the Individual Defendants, Plaintiff alleges the following based upon personal knowledge as to Plaintiff and Plaintiff’s own acts, and information and belief as to all other matters, based upon, *inter alia*, the investigation conducted by and through Plaintiff’s attorneys, which included, among other things, a review of the Defendants’ public documents, conference calls and announcements made by Defendants, United States Securities and Exchange Commission (“SEC”) filings, wire and press releases published by and regarding Tattooed Chef, legal filings, news reports, securities analysts’ reports and advisories about the Company, and information readily obtainable on the Internet. Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION

1. This is a shareholder derivative action that seeks to remedy wrongdoing committed by Tattooed Chef's controlling shareholder, directors and officers from March 20, 2021 through October 12, 2022 (the "Relevant Period").

2. Originally founded in 2009 as Ittella Parent, Tattooed Chef is a plant-based food company that primarily offers a broad portfolio of innovative frozen foods to customers. The Company's brand strategy involves introducing the attributes of a plant-based lifestyle to build a connection with customers seeking sustainably sourced, plant-based foods. The Company's food offerings accommodate preferences for flexitarian, vegetarian, vegan, organic, and gluten-free lifestyles.

3. Throughout the Relevant Period, the Individual Defendants frequently emphasized to the investing public that the Company was committed to the continuous improvement of its internal control over financial reporting and that this was subject to diligent review. In addition, the Company filed numerous quarterly reports on Forms 10-Q with the SEC throughout the Relevant Period stating that its consolidated financial statements fairly presented the Company's financial position and were drafted in conformity with Generally Accepted Accounting Principles ("GAAP").

4. In reality, not only was the Company failing to adequately review its internal control over financial reporting, but also the Company's improperly reported financial statements would violate GAAP and ultimately cause Tattooed Chef to restate over a year's worth of its financial statements, resulting in significant losses for the Company.

5. The truth began to emerge on March 11, 2022 when the Company issued a press release revealing that on March 7, 2022, the Board concluded that the Company's unaudited interim condensed consolidated financial statements for the quarters ended March 31, 2021, June 30, 2021 and September 30, 2021 should no longer be relied upon. The press release revealed that these financial statements were no longer reliable because the Company did not properly record the tax effects associated with the Company's

1 issuance of 825,000 shares of its common stock to investment bank, Harrison Co., in June
 2 2021.

3 6. As a result, the Company disclosed that it would “restate the unaudited
 4 consolidated financial statements” at issue.

5 7. On this news, the Company’s share price fell \$1.03 per share, or 9.07%,
 6 from closing at \$11.36 per share on March 11, 2022 to close at \$10.33 per share on
 7 March 14, 2022.

8 8. Despite these revelations, the Individual Defendants continued to make false
 9 and misleading statements and omissions about the Company’s internal control over
 10 financial reporting to the investing public in SEC filings, including in the annual report
 11 the Company filed with the SEC on Form 10-K on March 16, 2022 (the “2021 10-K”).

12 9. The truth did not fully emerge until after the market closed on October 12,
 13 2022. That day, the Company filed a Form 8-K with the SEC which revealed that various
 14 of the Company’s financial statements issued throughout the Relevant Period were
 15 “materially misstated and should no longer be relied upon and should be restated”
 16 because the Company had incorrectly recorded its expenses on several occasions.
 17 Specifically, the Company revealed that it had overstated revenue and understated losses
 18 for its “unaudited interim condensed consolidated financial statements for the quarters
 19 ended March 31, 2021, June 30, 2021, and September 30, 2021, and its audited annual
 20 consolidated financial statements for the year ended December 31, 2021.” In addition, the
 21 Board, after consulting with the Audit Committee, determined that the Company’s
 22 unaudited interim condensed consolidated financial statements for the quarters ended
 23 March 31, 2022 and June 30, 2022 should no longer be relied upon and would also need
 24 to be restated.

25 10. On this news, Tattooed Chef’s share price fell \$0.44 per share, or 9.8%,
 26 from closing at \$4.49 per share on October 12, 2022 to opening at \$4.05 per share on
 27 October 13, 2022.

1 11. During the Relevant Period, the Individual Defendants breached their
2 fiduciary duties to Tattooed Chef by making and/or causing the Company to make a
3 series of materially false and misleading statements to the investing public regarding the
4 Company's business, operations, and prospects. Specifically, the Individual Defendants
5 willfully or recklessly made and/or caused the Company to make false and misleading
6 statements to the investing public that failed to disclose, *inter alia*, that: (1) the Company
7 continuously downplayed its serious problems with internal controls; (2) Tattooed Chef's
8 financial statements filed during the Relevant Period contained "certain errors" such as
9 overstating revenue and understating losses; (3) due to this, the Company would need to
10 restate its previously filed financial statements for certain periods; and (4) as a result of
11 the foregoing, the Company's public statements were materially false and misleading
12 and/or lacked a reasonable basis at all relevant times.

13 12. The Individual Defendants also breached their fiduciary duties by failing to
14 correct and/or causing the Company to fail to correct these false and misleading
15 statements and omissions of material fact, while, during the Relevant Period, Defendant
16 Galletti sold Company shares at inflated prices for combined total proceeds of over
17 \$8,000,000.

18 13. Additionally, in breach of their fiduciary duties, the Individual Defendants,
19 during the Relevant Period, caused the Company to fail to maintain adequate internal
20 controls.

21 14. In light of the Individual Defendants' misconduct—which has subjected the
22 Company, its Chief Executive Officer ("CEO"), and its Chief Financial Officer ("CFO")
23 to a federal securities fraud class action lawsuit pending in the United States District
24 Court for the Central District of California (the "Securities Class Action"), the need to
25 undertake internal investigations, the need to implement adequate internal controls, the
26 losses from the waste of corporate assets, and the losses due to the unjust enrichment of
27 the Individual Defendants who were improperly overcompensated by the Company
28

and/or who benefitted from the wrongdoing alleged herein—the Company will have to expend many millions of dollars.

15. The Company has been substantially damaged as a result of the Individual Defendants' knowing or highly reckless breaches of fiduciary duty and other misconduct.

16. In light of the breaches of fiduciary duty engaged in by the Individual Defendants, most of whom are the Company's current directors, of the collective engagement in fraud and misconduct by the Company's directors, of the substantial likelihood of the directors' liability in this derivative action, of the CEO's and CFO's liability in the Securities Class Action, and of their not being disinterested and/or independent directors, a majority of the Company's Board cannot consider a demand to commence litigation against themselves on behalf of the Company with the requisite level of disinterestedness and independence.

JURISDICTION AND VENUE

17. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because Plaintiff's claims raise a federal question under Section 14(a) of the Exchange Act, 15 U.S.C. § 78n(a)(1); Rule 14a-9 of the Exchange Act, 17 C.F.R. § 240.14a-9; and Section 21D of the Exchange Act, 15 U.S.C. § 78u-4(f), and raise a federal question pertaining to the claims made in the Securities Class Action based on violations of the Exchange Act.

18. This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1337(a).

19. This derivative action is not a collusive action to confer jurisdiction on a court of the United States that it would not otherwise have.

20. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1401 because a substantial portion of the transactions and wrongs complained of herein occurred in this District, the Defendants have conducted business in this District, and the

1 Defendants have received substantial compensation in this District by engaging in
 2 numerous activities that had an effect in this District.
 3

4 PARTIES

5 Plaintiff

6 21. Plaintiff is a current shareholder of Tattooed Chef and has continuously held
 Tattooed Chef common stock at all relevant times.
 7

8 Nominal Defendant Tattooed Chef

9 22. Tattooed Chef is a Delaware corporation with its principal executive offices
 10 at 6305 Alondra Boulevard, Paramount, California 90723. Tattooed Chef's shares trade
 on NASDAQ under the ticker symbol "TTCF."
 11

12 Defendant Galletti

13 23. Defendant Galletti has served as the Company's CEO and President since its
 14 founding in 2009 and as a Company director since 2020. According to the Company's
 15 Schedule 14A filed with the SEC on April 21, 2022 (the "2022 Proxy Statement"), as of
 16 April 4, 2022, Defendant Galletti beneficially owned 31,420,522 shares of the
 17 Company's common stock, representing 38.2% of the Company's outstanding shares,
 18 thus making Defendant Galletti a controlling shareholder of the Company. Given that the
 19 price per share of the Company's common stock at the close of trading on April 4, 2022
 20 was \$12.25, Defendant Galletti owned approximately \$384.9 million worth of Tattooed
 Chef stock.
 21

22 24. For the fiscal year ended December 31, 2021 (the "2021 Fiscal Year"),
 23 Defendant Galletti received \$375,000 in total compensation from the Company, made up
 24 entirely of his salary. For the fiscal year ended December 31, 2020 (the "2020 Fiscal
 25 Year"), Defendant Galletti received \$387,067 in total compensation from the Company.
 26 This included \$272,095 in salary, \$100,000 in stock awards, and \$14,972 in all other
 27 compensation.
 28

1 25. During the Relevant Period, while the Company's stock price was artificially
 2 inflated and before the scheme was exposed, Defendant Galletti made the following sales
 3 of Company stock:

Date	Number of Shares	Avg. Price/Share	Proceeds
April 15, 2021	800,000	\$10.00	\$8,000,000

6 Thus, in total, before the fraud was exposed, he sold 800,000 shares of Company stock on
 7 inside information, for which he received approximately \$8,000,000 in proceeds. His
 8 insider sales, made with knowledge of material nonpublic information before the material
 9 misstatements and omissions were exposed, demonstrate his motive in facilitating and
 10 participating in the scheme.

11 26. The 2022 Proxy Statement stated the following about Defendant Galletti:

12 13 Salvatore "Sam" Galletti has served as our President and CEO since our
 14 founding in 2009 as Stonegate Foods, Inc. Mr. Galletti has over 35 years'
 15 experience in the food industry including prior operational and investor roles
 16 at Tattooed Chef, Sonora Mills, Good Karma Foods, and others, where he
 17 gained experience manufacturing a variety of products including seafood,
 18 breaded vegetables, grilled chicken and other organic foods. Through these
 19 prior roles, he has established key relationships with many of the retailers
 20 who now carry our products. Mr. Galletti initially intended that we be
 21 primarily an importer of Italian vegetables and other products, having
 22 realized the quality of produce from Italy surpassed that of available
 23 comparable produce from the U.S. Following our entrance into private label
 24 production and manufacturing of frozen products in our own facility, the
 25 name was changed to Ittella International in 2015. Mr. Galletti also serves as
 26 one of our directors.

27 **Defendant Dieckmann**

28 27. Defendant Dieckmann has served as the Company's CFO since November
 29 2021. Prior to this, Defendant Dieckmann served as the Company's Chief Operating
 30 Officer ("COO") from 2017 to 2021. According to the 2022 Proxy Statement, as of April
 31 4, 2022, Defendant Dieckmann beneficially owned 500,000 shares of the Company's
 32 common stock. Given that the price per share of the Company's common stock at the
 33

1 close of trading on April 4, 2022 was \$12.25, Defendant Dieckmann owned
 2 approximately \$6.1 million worth of Tattooed Chef stock.
 3

4 28. For the 2021 Fiscal Year, Defendant Dieckmann received \$380,423 in total
 5 compensation from the Company. This included \$280,423 in salary and \$100,000 in all
 6 other compensation. For the 2020 Fiscal Year, Defendant Dieckmann received
 7 \$13,203,846 in total compensation from the Company. This included \$163,846 in salary
 and \$13,040,000 in all other compensation.
 8

9 29. The 2022 Proxy Statement stated the following about Defendant
 10 Dieckmann:
 11

12 Stephanie Dieckmann served as our COO from 2017 to 2021 and currently
 13 serves as our CFO. She has over 12 years of combined food industry
 14 experience. In her role as CFO, she oversees all of our accounting, business
 15 support, financial planning and analysis, treasury, real estate and tax
 16 functions. Ms. Dieckmann was appointed as our CFO on April 15, 2021. In
 17 her role as COO, Ms. Dieckmann is primarily responsible for all operations
 18 in the U.S. and helped spearheaded growth from approximately \$32.5
 19 million in sales in 2017 to approximately \$148.5 million in 2020. Prior to
 joining us, Ms. Dieckmann was CFO at APPA Fine Foods, a private label
 food manufacturer of fresh ready to eat, frozen meals, and grilled chicken
 products, where she worked for over seven years. She also held a financial
 controller position with The Perfect Bite Co., a gourmet frozen appetizer
 company. During her time at APPA Fine Foods, Ms. Dieckmann became
 acquainted with Mr. Galletti, who was a former investor in that company.
 20

Defendant Boris

21 30. Defendant Boris has served as a Company director since 2018. Defendant
 22 Boris also serves as a member of the Compensation Committee. According to the 2022
 23 Proxy Statement, as of April 4, 2022, Defendant Boris beneficially owned 4,935 shares of
 24 the Company's common stock. Given that the price per share of the Company's common
 25 stock at the close of trading on April 4, 2022 was \$12.25, Defendant Boris owned
 26 approximately \$60,454 worth of Tattooed Chef stock.
 27

28 31. For the 2021 Fiscal Year, Defendant Boris received \$100,000 in total
 compensation from the Company made up entirely of cash. For the 2020 Fiscal Year,
 29

1 Defendant Boris received \$100,000 in total compensation from the Company made up
2 entirely of stock awards.

3 32. The 2022 Proxy Statement stated the following about Defendant Boris:

4 David Boris has served as Co-Chief Executive Officer, Chief Financial
5 Officer and Director of Forum Merger I Corporation (“Forum I”) from its
6 inception in November 2016 until Forum I’s business combination with
7 ConvergeOne and served as a member of ConvergeOne’s board of directors
8 from the business combination until ConvergeOne’s acquisition by CVC in
9 January 2019 at \$12.50 per share. He was Co-Chief Executive Officer, Chief
10 Financial Officer and Director of Forum Merger II Corp from its inception
11 in August 2018 until its business combination with Myjojo, Inc. Mr. Boris
12 was the Co-Chief Executive Officer, Chief Financial Officer and Director of
13 Forum Merger III Corp until its merger with Electric Last Mile Solutions.
14 He is currently Co-CEO and CFO of Forum Merger IV Corp. Mr. Boris has
15 been the Co-Chief Executive Officer of Form Merger IV Corp. since March
16 2021. He has over 30 years of Wall Street experience in mergers and
17 corporate finance and has been involved in approximately 20 SPAC
18 transactions as an advisor, investment banker and/or officer or board
19 member, including over ten business combinations totaling over \$5.0 billion.
20 Mr. Boris was a Director of Pacific Special Acquisition Corp. from July
21 2015 until August 2017. From November 2010 to May 2013, Mr. Boris
22 served as Chairman of Primcogent Solutions LLC, leading the board during
23 the period of the company’s preparation to seek reorganization by way of a
24 voluntary bankruptcy petition, which was filed in 2013. Mr. Boris served as
25 Senior Managing Director and Head of Investment Banking at Pali Capital,
26 Inc., an investment banking firm, from 2007. Mr. Boris served as President
27 of Ladenburg Thalmann Group Inc. from 1999 to 2000, and was also
28 Executive Vice President and Head of Investment Banking at Ladenburg
Thalmann & Co. Inc. from 1998 to 2000. In addition, he was a co-founder,
director, and a principal stockholder of Brenner Securities Corporation and
its successors. Prior to Brenner, Mr. Boris was at Oppenheimer & Company
Inc., as a Senior Vice President and Limited Partner. Mr. Boris began his
career as a member of the Business Development Group of W.R. Grace &
Company, from 1984 to 1985. He is an active member of the Young
Presidents’ Organization, an organization with over 25,000 members who
are in the top position of a qualifying company or division and are directly
responsible for all operations of such business or division. Mr. Boris
received a M.B.A. from Columbia University Business School and a B.A.
from Vassar College, cum laude.

Defendant Ciaramitaro

33. Defendant Ciaramitaro has served as a Company director since 2020. Defendant Ciaramitaro also serves as a member of the Audit Committee and the Nominating and Corporate Governance Committee. According to the 2022 Proxy Statement, as of April 4, 2022, Defendant Ciaramitaro beneficially owned 9,930 shares of the Company's common stock. Given that the price per share of the Company's common stock at the close of trading on April 4, 2022 was \$12.25, Defendant Ciaramitaro owned approximately \$121,643 worth of Tattooed Chef stock.

34. For the 2021 Fiscal Year, Defendant Ciaramitaro received \$100,000 in total compensation from the Company. This included \$99,983 in stock awards and \$17 in cash. For the 2020 Fiscal Year, Defendant Ciaramitaro received \$100,000 in total compensation from the Company made up entirely of stock awards.

35. The 2022 Proxy Statement stated the following about Defendant Ciaramitato:

Paula Ann Ciaramitaro is a seasoned financial executive with more than 25 years of experience in the food industry. She has served as the Controller for J&D Seafoods, Inc. since 1994 and has extensive experience managing accounts receivable, accounts payable, inventory and trading, product sourcing and creation, developing trading strategies in a very competitive seafood market, and much more. Prior to her position with J&D Seafoods, she founded her own travel agency, M.A.P. Travel, Inc., which she operated from 1982 to 1987. Through June 30, 2020, Ms. Ciaramitaro served as the President of the University of Southern California (“USC” or the “University”) Town and Gown, which is the largest USC alumni organization in existence and oversaw a \$46 million budget for the organization. She currently serves as an advisor to the Board of Town and Gown. She has been highly involved with philanthropic and fundraising efforts for the University and was instrumental in working with the USC Board of Trustees to coordinate a \$6 billion fundraising effort for the University. She graduated from the University of Southern California in 1985 with a B.S. in Business Administration and a Master of Business Administration from the University of Phoenix in June 2010.

Defendant Fellner

36. Defendant Fellner has served as a Company director since 2020. Defendant Fellner also serves as a member of the Compensation Committee. According to the 2022 Proxy Statement, as of April 4, 2022, Defendant Fellner beneficially owned 7,471 shares of the Company's common stock. Given that the price per share of the Company's common stock at the close of trading on April 4, 2022 was \$12.25, Defendant Fellner owned approximately \$91,520 worth of Tattooed Chef stock.

37. For the 2021 Fiscal Year, Defendant Fellner received \$100,000 in total compensation from the Company. This included \$48,000 in stock awards and \$52,000 in cash. For the 2020 Fiscal Year, Defendant Fellner received \$100,000 in total compensation from the Company made up entirely of stock awards.

38. The 2022 Proxy Statement stated the following about Defendant Fellner:

Jennifer Fellner is a veteran communications consultant with 30 years of broad public relations experience at national communication agencies helping a wide range of clients from start-ups developing brands to Fortune 500 companies successfully communicating with stakeholders across industries spanning consumer products, technology, food and politics. She has been privileged to work with brands such as Apple Computer, Annie's Organics, Brinker International, Clif Bar, ESPN, Hasbro, Horizon Organic, Intuit, LeapFrog Toys, Lundberg Family Farms, Peet's Coffee & Tea, Polycom, Safeway, SEGA, Seiko and Toys "R" Us among others. Dedicated to delivering fresh ideas, measurable results and strategic insights, she recently founded Ally Advisers, a Communications Consultancy. Ms. Fellner's focus on reputation management and sustainability gives her deep experience in financial communications, executive communications, influencer relations and social media, as well as issues management, counseling clients with challenges ranging from exploding toys, food manufacturing safety issues and online financial fraud. Ms. Fellner's focus on Reputation Management and Sustainability gives her deep experience in financial communications, executive communications and speechwriting, as well as crisis communications and issues management, counseling clients with challenges ranging from exploding toys, food tampering to online financial fraud. Ms. Fellner was contracted to provide marketing assistance to us for the year ended December 31, 2021. Ms. Fellner directed all aspects

1 of marketing communication including advertising, digital, social and
 2 content initiatives, promotions, PR, events and partnerships and led the
 3 annual marketing function planning process, establishing marketing goals
 4 and strategies, tactical plans, and a performance dashboard that includes all
 5 critical key performance indicators. We paid approximately \$0.10 million
 6 for the services provided during the year ended December 31, 2021.

7 **Defendant Gelfand**

8 39. Defendant Gelfand has served as a Company director since 2020. Defendant
 9 Gelfand also serves as Chairman of the Audit Committee and as a member of the
 10 Nominating and Corporate Governance Committee. According to the 2022 Proxy
 11 Statement, as of April 4, 2022, Defendant Gelfand beneficially owned 7,471 shares of the
 12 Company's common stock. Given that the price per share of the Company's common
 13 stock at the close of trading on April 4, 2022 was \$12.25, Defendant Gelfand owned
 14 approximately \$91,520 worth of Tattooed Chef stock.

15 40. For the 2021 Fiscal Year, Defendant Gelfand received \$125,000 in total
 16 compensation from the Company. This included \$48,000 in stock awards and \$77,000 in
 17 cash. For the 2020 Fiscal Year, Defendant Gelfand received \$100,000 in total
 18 compensation from the Company made up entirely of stock awards.

19 41. The 2022 Proxy Statement stated the following about Defendant Gelfand:

20 Edward Gelfand has over four decades of combined legal experience
 21 involving business and securities regulation. Mr. Gelfand specializes in
 22 public and private securities offerings and syndications, securities
 23 compliance and transactions, public company filings, merger and
 24 acquisitions, as well as other related practices, including SEC and FINRA
 25 defense representation. Mr. Gelfand is an active member of the State Bar of
 26 California, and is a partner in the law firm of Gartenberg Gelfand Hayton
 27 LLP and also serves as of counsel to the law firm of Gundzik Heeger LLP.
 28 Mr. Gelfand has served and continues to serve as corporate securities
 1 counsel for several SEC-reporting public companies, including QS Energy,
 2 Inc., Rightscorp Inc., Iroquois Valley Farmland REIT, PBC (Regulation
 3 A+), Massroots, Inc. and PPOL, Inc. He also serves as corporate counsel to
 4 numerous private companies and individuals. Mr. Gelfand has experience
 5 across a wide range of industries, including broker-dealers, investment
 6 advisers, restaurants, film distribution pro boxing, renewable energies,

1 aeronautics, auto racing, and real estate. Mr. Gelfand has been engaged in
 2 private and government practice since 1976. He has previously served as a
 3 staff attorney, special counsel, and as a Chief, Branch of Enforcement, in the
 4 Los Angeles Regional Office of the U.S. Securities and Exchange
 5 Commission. He has also served as an arbitrator for the NASD, now
 6 Financial Industry Regulatory Authority (FINRA), and been appointed as a
 7 receiver by numerous federal courts. Mr. Gelfand received a B.S. from
 8 Roosevelt University in 1970, and a J.D. from the University of San
 9 Fernando Valley College of Law in 1976.

10 **Defendant Olohan**

11 42. Defendant Olohan has served as a Company director since 2020. Defendant
 12 Olohan also serves as Chairman of the Food Safety Committee. According to the 2022
 13 Proxy Statement, as of April 4, 2022, Defendant Olohan beneficially owned 7,471 shares
 14 of the Company's common stock. Given that the price per share of the Company's
 15 common stock at the close of trading on April 4, 2022 was \$12.25, Defendant Olohan
 16 owned approximately \$91,520 worth of Tattooed Chef stock.

17 43. For the 2021 Fiscal Year, Defendant Olohan received \$100,000 in total
 18 compensation from the Company. This included \$48,000 in stock awards and \$52,000 in
 19 cash. For the 2020 Fiscal Year, Defendant Olohan received \$100,000 in total
 20 compensation from the Company made up entirely of stock awards.

21 44. The 2022 Proxy Statement stated the following about Defendant Olohan:
 22 Ryan Olohan is the managing director of Food, Beverage and Restaurants at
 23 Google. Ryan started his career at Google in 2007, first overseeing the
 24 consumer packaged goods industry and has spent the past seven years as a
 25 thought leader in healthcare as the Managing Director of Google Healthcare.
 26 He leads the teams responsible for developing and managing Google's
 27 relationships with the foremost innovators in the food, beverage and
 28 restaurant space. Mr. Olohan's teams partner with the largest restaurant
 advertisers in the world to build their brands through utilizing Google's vast
 search, display, mobile, online video, and other platforms. As head of the
 Food Industry team, Mr. Olohan is responsible for driving the teams'
 strategy, industry and consumer insights, operational excellence, and thought
 leadership.

Defendant Quintero-Johnson

45. Defendant Quintero-Johnson has served as a Company director since 2020. Defendant Quintero-Johnson also serves as a member of the Audit Committee and the Food Safety Committee. According to the 2022 Proxy Statement, as of April 4, 2022, Defendant Quintero-Johnson beneficially owned 4,935 shares of the Company's common stock. Given that the price per share of the Company's common stock at the close of trading on April 4, 2022 was \$12.25, Defendant Quintero-Johnson owned approximately \$60,454 worth of Tattooed Chef stock.

46. For the 2021 Fiscal Year, Defendant Quintero-Johnson received \$100,000 in total compensation from the Company made up entirely of cash. For the 2020 Fiscal Year, Defendant Quintero-Johnson received \$100,000 in total compensation from the Company made up entirely of stock awards.

47. The 2022 Proxy Statement stated the following about Defendant Quintero-Johnson:

Marie Quintero-Johnson has over 30 years of combined food and beverage experience. Currently, she serves as Vice President, M&A, Insights, and Corporate Real Estate for The Coca-Cola Company, a role she has held since 2002. In her current role, Ms. Quintero-Johnson supports the development and implementation of Coca-Cola's global strategy through various growth, efficiency, and scale initiatives. During her tenure, the Coca-Cola Company has completed more than \$40 billion worth of transactions in over 100 countries, and has significantly increased the number of brands under its corporate umbrella. Prior to joining the Coca-Cola Company in 1992, Ms. Quintero-Johnson began her career at Coopers & Lybrand (n.k.a PricewaterhouseCoopers). Ms. Quintero-Johnson currently sits on the Board of Coca-Cola Beverages Africa, Coca-Cola Bottling of Egypt, Atlanta Downtown Improvement District, and Cristo Rey Atlanta high School. She received her M.B.A. from the Darden Graduate School of Business Administration, University of Virginia, and her B.S. in Accounting and International Business from Georgetown University. Ms. Quintero-Johnson is a Certified Public Accountant.

Defendant Rosenberg

48. Defendant Rosenberg has served as a Company director since 2020. Defendant Rosenberg also serves as Chairman of the Compensation Committee and as a member of the Food Safety Committee. According to the 2022 Proxy Statement, as of April 4, 2022, Defendant Rosenberg beneficially owned 7,471 shares of the Company's common stock. Given that the price per share of the Company's common stock at the close of trading on April 4, 2022 was \$12.25, Defendant Rosenberg owned approximately \$91,520 worth of Tattooed Chef stock.

49. For the 2021 Fiscal Year, Defendant Rosenberg received \$125,000 in total compensation from the Company. This included \$48,000 in stock awards and \$77,000 in cash. For the 2020 Fiscal Year, Defendant Rosenberg received \$100,000 in total compensation from the Company which was made up entirely of stock awards.

50. The 2022 Proxy Statement stated the following about Defendant Rosenberg:

Bryan Rosenberg has held executive management positions within food and beverage companies for over 30 years. Mr. Rosenberg is the President and CEO of Thai Union North America. He is responsible for its two operating companies, Chicken of the Sea International (COSI) and Chicken of the Sea Frozen Foods (COSFF). The two subsidiaries have annual revenue of approximately \$1.4 billion and provide the greatest portion of revenue globally for Thai Union, the world's largest producer of shelf-stable tuna products with annual sales exceeding \$4.3 billion and a global workforce of over 47,000 people. Prior to his current role, Mr. Rosenberg served as President and CEO of COSFF since he established the Company in 2006 in partnership with Thai Union. Under Mr. Rosenberg's leadership, COSFF has become the largest importer of shrimp, lobster, and crab meat in the US, selling into all channels of trade with annual revenue approaching \$1.1 billion. Mr. Rosenberg also serves on the Board of Advisors for the Department of Economics at University of California, Santa Barbara, where he is a Magna Cum Laude graduate with a B.A. in Business Economics.

Defendant Williamson

51. Defendant Williamson has served as a Company director since 2020. Defendant Williamson also serves as Chairman of the Nominating and Corporate

1 Governance Committee. According to the 2022 Proxy Statement, as of April 4, 2022,
2 Defendant Williamson owned 259,930 shares of the Company's common stock. Given
3 that the price per share of the Company's common stock at the close of trading on April
4 4, 2022 was \$12.25, Defendant Williamson owned approximately \$3.2 million worth of
5 Tattooed Chef stock.

6 52. For the 2021 Fiscal Year, Defendant Williamson received \$100,000 in total
7 compensation from the Company. This included \$99,983 in stock awards and \$17 in
8 cash. For the 2020 Fiscal Year, Defendant Williamson received \$100,000 in total
9 compensation from the Company which consisted entirely of stock awards.

10 53. The 2022 Proxy Statement stated the following about Defendant
11 Williamson:

12 Daniel Williamson is currently a consultant and private investor. Mr.
13 Williamson was the founder and past President and CEO of Aspen Medical
14 Products from October 1993 until November 2020. He was responsible for
15 their global operations with offices in United States, Mexico, Germany and
16 Scotland. He was the majority owner of the business until it was sold to the
17 Cortec Group in 2019. Under his leadership, Aspen Medical Products
18 became the premier leader in Spinal Bracing. Prior to founding Aspen
19 Medical Products, Mr. Williamson was the COO and CFO for California
20 Medical Products from 1988 to 1991, and the General Manager for Ladera
21 Medical California from 1991 to 1995, to whom California Medical
22 Products was sold in 1991. Mr. Williamson began his career in 1978 at
23 American Hospital Supply Corporation, which subsequently merged with
24 Baxter International. He has held positions in operations, finance and
25 accounting for multiple divisions of both companies. Mr. Williamson won
26 the EY Entrepreneur Award for Orange County CA in 2017 for his
27 innovative leadership at Aspen. Mr. Williamson also serves as the Chairman
28 of Alger Precision Manufacturing, Reflections Holdings and Deep Roots
Bible Curriculum. He is also on the Board of Focal Point Ministries and The
Premier Christian Education Group. Mr. Williamson has a Bachelor of
Science degree in Accounting from Miami University in Ohio and holds a
CPA.

FIDUCIARY DUTIES OF THE INDIVIDUAL DEFENDANTS

54. By reason of their positions as controlling shareholder, officers, directors, and/or fiduciaries of Tattooed Chef and because of their ability to control the business and corporate affairs of Tattooed Chef, the Individual Defendants owed Tattooed Chef and its shareholders fiduciary obligations of trust, loyalty, good faith, and due care, and were and are required to use their utmost ability to control and manage Tattooed Chef in a fair, just, honest, and equitable manner. The Individual Defendants were and are required to act in furtherance of the best interests of Tattooed Chef and its shareholders so as to benefit all shareholders equally.

55. Each controlling shareholder, director and officer of the Company owes to Tattooed Chef and its shareholders the fiduciary duty to exercise good faith and diligence in the administration of the Company and in the use and preservation of its property and assets and the highest obligations of fair dealing.

56. The Individual Defendants, because of their positions of control and authority as controlling shareholder, directors and/or officers of Tattooed Chef, were able to and did, directly and/or indirectly, exercise control over the wrongful acts complained of herein.

57. To discharge their duties, the controlling shareholder, officers and directors of Tattooed Chef were required to exercise reasonable and prudent supervision over the management, policies, controls, and operations of the Company.

58. Each Individual Defendant, by virtue of his or her position as a controlling shareholder, director and/or officer, owed to the Company and to its shareholders the highest fiduciary duties of loyalty, good faith, and the exercise of due care and diligence in the management and administration of the affairs of the Company, as well as in the use and preservation of its property and assets. The conduct of the Individual Defendants complained of herein involves a knowing and culpable violation of their obligations as controlling shareholder, directors and officers of Tattooed Chef, the absence of good faith

1 on their part, or a reckless disregard for their duties to the Company and its shareholders
2 that the Individual Defendants were aware or should have been aware posed a risk of
3 serious injury to the Company. The conduct of the Individual Defendants who were also
4 controlling shareholder, officers and directors of the Company has been ratified by the
5 remaining Individual Defendants who collectively comprised Tattooed Chef's Board at
6 all relevant times.

7 59. As controlling shareholder, senior executive officers and/or directors of a
8 publicly-traded company whose common stock was registered with the SEC pursuant to
9 the Exchange Act and traded on NASDAQ, the Individual Defendants had a duty to
10 prevent and not to effect the dissemination of inaccurate and untruthful information with
11 respect to the Company's financial condition, performance, growth, operations, financial
12 statements, business, products, management, earnings, internal controls, and present and
13 future business prospects, including the dissemination of false information regarding the
14 Company's business, prospects, and operations, and had a duty to cause the Company to
15 disclose in its regulatory filings with the SEC all those facts described in this complaint
16 that it failed to disclose, so that the market price of the Company's common stock would
17 be based upon truthful and accurate information. Further, they had a duty to ensure the
18 Company remained in compliance with all applicable laws.

19 60. To discharge their duties, the controlling shareholder, officers and directors
20 of Tattooed Chef were required to exercise reasonable and prudent supervision over the
21 management, policies, practices, and internal controls of the Company. By virtue of such
22 duties, the controlling shareholder, officers and directors of Tattooed Chef were required
23 to, among other things:

24 (a) ensure that the Company was operated in a diligent, honest, and
25 prudent manner in accordance with the laws and regulations of Delaware, California, and
26 the United States, and pursuant to Tattooed Chef's own Code of Ethics (the "Code of
27 Ethics");

(b) conduct the affairs of the Company in an efficient, business-like manner so as to make it possible to provide the highest quality performance of its business, to avoid wasting the Company's assets, and to maximize the value of the Company's stock;

(c) remain informed as to how Tattooed Chef conducted its operations, and, upon receipt of notice of information of imprudent or unsound conditions or practices, to make reasonable inquiry in connection therewith, and to take steps to correct such conditions or practices;

(d) establish and maintain systematic and accurate records and reports of the business and internal affairs of Tattooed Chef and procedures for the reporting of the business and internal affairs to the Board and to periodically investigate, or cause independent investigation to be made of, said reports and records;

(e) maintain and implement an adequate and functioning system of internal legal, financial, and management controls, such that Tattooed Chef's operations would comply with all applicable laws and Tattooed Chef's financial statements and regulatory filings filed with the SEC and disseminated to the public and the Company's shareholders would be accurate;

(f) exercise reasonable control and supervision over the public statements made by the Company's officers and employees and any other reports or information that the Company was required by law to disseminate;

(g) refrain from unduly benefiting themselves and other Company insiders at the expense of the Company; and

(h) examine and evaluate any reports of examinations, audits, or other financial information concerning the financial affairs of the Company and to make full and accurate disclosure of all material facts concerning, *inter alia*, each of the subjects and duties set forth above.

1 61. Each of the Individual Defendants further owed to Tattooed Chef and the
2 shareholders the duty of loyalty requiring that each favor Tattooed Chef's interest and
3 that of its shareholders over their own while conducting the affairs of the Company and
4 refrain from using their position, influence or knowledge of the affairs of the Company to
5 gain personal advantage.

6 62. At all times relevant hereto, the Individual Defendants were the agents of
7 each other and of Tattooed Chef and were at all times acting within the course and scope
8 of such agency.

9 63. Because of their advisory, executive, managerial, directorial, and controlling
10 shareholder positions with Tattooed Chef, each of the Individual Defendants had access
11 to adverse, non-public information about the Company.

12 64. The Individual Defendants, because of their positions of control and
13 authority, were able to and did, directly or indirectly, exercise control over the wrongful
14 acts complained of herein, as well as the contents of the various public statements issued
15 by Tattooed Chef.

16 **CONSPIRACY, AIDING AND ABETTING, AND CONCERTED ACTION**

17 65. In committing the wrongful acts alleged herein, the Individual Defendants
18 have pursued, or joined in the pursuit of, a common course of conduct, and have acted in
19 concert with and conspired with one another in furtherance of their wrongdoing. The
20 Individual Defendants caused the Company to conceal the true facts as alleged herein.
21 The Individual Defendants further aided and abetted and/or assisted each other in
22 breaching their respective duties.

23 66. The purpose and effect of the conspiracy, common enterprise, and/or
24 common course of conduct was, among other things, to: (i) facilitate and disguise the
25 Individual Defendants' violations of law, including breaches of fiduciary duty, unjust
26 enrichment, waste of corporate assets, gross mismanagement, abuse of control, and
27 violations of the Exchange Act; (ii) conceal adverse information concerning the

Company's operations, financial condition, legal compliance, future business prospects and internal controls; and (iii) to artificially inflate the Company's stock price.

67. The Individual Defendants accomplished their conspiracy, common enterprise, and/or common course of conduct by causing the Company purposefully or recklessly to conceal material facts, fail to correct such misrepresentations, and violate applicable laws. In furtherance of this plan, conspiracy, and course of conduct, the Individual Defendants collectively and individually took the actions set forth herein. Because the actions described herein occurred under the authority of the Board, each of the Individual Defendants who is a director of Tattooed Chef was a direct, necessary, and substantial participant in the conspiracy, common enterprise, and/or common course of conduct complained of herein.

68. Each of the Individual Defendants aided and abetted and rendered substantial assistance in the wrongs complained of herein. In taking such actions to substantially assist the commission of the wrongdoing complained of herein, each of the Individual Defendants acted with actual or constructive knowledge of the primary wrongdoing, either took direct part in, or substantially assisted in the accomplishment of that wrongdoing, and was or should have been aware of his or her overall contribution to and furtherance of the wrongdoing.

69. At all times relevant hereto, each of the Individual Defendants was the agent of each of the other Individual Defendants and of Tattooed Chef, and was at all times acting within the course and scope of such agency.

TATTOOED CHEF'S CODE OF ETHICS

70. Tattooed Chef's Code of Ethics was adopted by the Board to, among other things, promote "honest and ethical conduct" and "compliance with applicable governmental laws, rules and regulations." The Code of Ethics states that it is "applicable to all of the Company's directors, officers, and employees."

1 71. In a section titled, “Honest, Ethical and Fair Conduct,” the Code of Ethics
 2 states the following, in relevant part:

3 1. Each person must:

4 • Avoid conflicts of interest, wherever possible, except as may be
 5 allowed under guidelines or resolutions approved by the Board (or the
 6 appropriate committee of the Board) or as disclosed in the Company’s
 7 public filings with the SEC. Anything that would be a conflict for a
 8 person subject to this Code also will be a conflict for a member of his
 9 or her immediate family or any other close relative.

10 72. In a section titled, “Financial Statements and Other Records,” the Code of
 11 Ethics states the following:

12 All of the Company’s books, records, accounts and financial statements
 13 must be maintained in reasonable detail, must appropriately reflect the
 14 Company’s transactions and must both conform to applicable legal
 15 requirements and to the Company’s system of internal controls. Unrecorded
 16 or “off the books” funds or assets should not be maintained unless permitted
 17 by applicable law or regulation.

18 Records should always be retained or destroyed according to the Company’s
 19 record retention policies. In accordance with those policies, in the event of
 20 litigation or governmental investigation, please consult the Board or the
 21 Company’s internal or external legal counsel.

22 73. In a section titled, “Disclosure,” the Code of Ethics states the following, in
 23 relevant part:

24 The Company strives to ensure that the contents of and the disclosures in the
 25 reports and documents that the Company files with the SEC and other public
 26 communications shall be full, fair, accurate, timely and understandable in
 27 accordance with applicable disclosure standards, including standards of
 28 materiality, where appropriate. Each person must:

29 • not knowingly misrepresent, or cause others to misrepresent, facts
 30 about the Company to others, whether within or outside the Company,
 31 including to the Company’s independent registered public
 32 accountants, governmental regulators, self-regulating organizations
 33 and other governmental officials, as appropriate; and
 34 • in relation to his or her area of responsibility, properly review and
 35 critically analyze proposed disclosure for accuracy and completeness.

1 In addition to the foregoing, the Chief Executive Officer (“CEO”) and the
 2 Chief Financial Officer (“CFO”) of the Company and each subsidiary of the
 3 Company (or persons performing similar functions), and each other person
 4 that typically is involved in the financial reporting of the Company, must
 5 familiarize himself or herself with the disclosure requirements applicable to
 6 the Company as well as the business and financial operations of the
 7 Company.

8 74. In a section titled, “Compliance,” the Code of Ethics states the following, in
 9 relevant part:

10 8 It is the Company’s obligation and policy to comply with all applicable
 11 9 governmental laws, rules and regulations. All directors, officers and
 12 10 employees of the Company are expected to understand, respect and comply
 13 11 with all of the laws, regulations, policies and procedures that apply to them
 14 12 in their positions with the Company. Employees are responsible for talking
 15 13 to their supervisors to determine which laws, regulations and Company
 16 14 policies apply to their position and what training is necessary to understand
 17 15 and comply with them.

18 16 75. In a section titled, “Reporting and Accountability,” the Code of Ethics states
 19 17 the following, in relevant part:

20 18 17 The Board, or a committee designated by the Board for such purpose, is
 21 19 responsible for applying this Code to specific situations in which questions
 22 20 are presented to it and has the authority to interpret this Code in any
 23 21 particular situation. Any person who becomes aware of any existing or
 24 22 potential breach of this Code is required to notify the Chairperson of the
 25 23 Board promptly. Failure to do so is, in and of itself, a breach of this Code.

26 24 76. In a section titled, “Insider Information and Securities Trading,” the Code of
 27 25 Ethics states the following, in relevant part:

28 26 25 No person who is aware of material, non-public information about the
 29 27 Company may, directly or indirectly, buy or sell the Company’s securities or
 30 28 engage in another action to take advantage of such information. It is also
 31 29 against the law to trade or to “tip” others who might make an investment
 32 30 decision based on material, non-public information about the Company. For
 33 31 example, using material, non-public information to buy or sell the
 34 32 Company’s securities, options in the Company’s securities or the securities
 35 33 of any Company supplier, customer or competitor is prohibited. The
 36 34 consequences of insider trading violations can be severe. These rules also
 37 35 apply to the use of material, nonpublic information about other companies

1 (including, for example, our customers, competitors and potential business
 2 partners).

3 77. In violation of the Code of Ethics, the Individual Defendants conducted
 4 little, if any, oversight of the Company's engagement in the Individual Defendants' scheme to issue materially false and misleading statements to the public and to facilitate
 5 and disguise the Individual Defendants' violations of law, including breaches of fiduciary
 6 duty, gross mismanagement, abuse of control, waste of corporate assets, unjust
 7 enrichment, violations of the Exchange Act, and aiding and abetting thereof. Moreover,
 8 one of the Individual Defendants violated the Code of Ethics by engaging in insider
 9 trading. Also in violation of the Code of Ethics, the Individual Defendants failed to
 10 maintain the accuracy of Company records and reports, comply with laws and
 11 regulations, conduct business in an honest and ethical manner, and properly report
 12 violations of the Code of Ethics.
 13

14 **TATTOOED CHEF'S AUDIT COMMITTEE CHARTER**

15 78. The Company also maintains an Audit Committee Charter (the "Charter").
 16 Regarding the Company's annual Forms 10-K, the Charter states that the Audit
 17 Committee will "[r]eview and discuss the annual audited financial statements and the
 18 Company's disclosures under 'Management's Discussion and Analysis of Financial
 19 Condition and Results of Operations' with management and the independent registered
 20 public accounting firm."

21 79. Likewise, with respect to the Company's quarterly Forms 10-Q, the Charter
 22 states that the Audit Committee will "[r]eview and discuss the quarterly financial
 23 statements and the Company's disclosures provided in periodic quarterly reports
 24 including 'Management's Discussion and Analysis of Financial Condition and Results of
 25 Operations' with management, the senior internal auditing executive (or outside internal
 26 auditing principal, if applicable) and the independent registered public accounting firm."

27 80. Moreover, with respect to the Company's earnings press releases, the
 28 Charter provides that the Audit Committee will "[d]iscuss policies and procedures

1 concerning earnings press releases and review the type and presentation of information to
 2 be included in earnings press releases (paying particular attention to any use of ‘pro
 3 forma’ or ‘adjusted’ non-GAAP information), as well as financial information and
 4 earnings guidance provided to analysts and rating agencies.”

5 81. With respect to risk assessment and management, the Charter states that the
 6 Audit Committee will “[d]iscuss policies and guidelines to govern the process by which
 7 risk assessment and risk management is undertaken” and “[m]eet periodically (not less
 8 than annually) with management to review and assess the Company’s major financial risk
 9 exposures and the manner in which such risks are being monitored and controlled.”

10 82. Finally, with respect to the Company’s internal control over financial
 11 reporting, the Charter states that the Audit Committee will:

12 Review with the chief executive officer, chief financial officer, and
 13 independent registered public accounting firm, periodically, the following:

- 14 • all significant deficiencies and material weaknesses in the design or
 15 operation of internal control over financial reporting which are
 16 reasonably likely to adversely affect the Company’s ability to record,
 17 process, summarize and report financial information; and
 18
- any fraud, whether or not material, that involves management or other
 19 employees who have a significant role in the Company’s internal
 20 control over financial reporting.

THE INDIVIDUAL DEFENDANTS’ MISCONDUCT

Background

21 83. Tattooed Chef is a plant-based food company that primarily offers a broad
 22 portfolio of innovative frozen foods to customers. The Company’s brand strategy
 23 involves introducing the attributes of a plant-based lifestyle to build a connection with
 24 customers seeking sustainably sourced, plant-based foods. The Company’s food offerings
 25 accommodate preferences for flexitarian, vegetarian, vegan, organic, and gluten-free
 26 lifestyles.

1 84. During the Relevant Period, the Individual Defendants frequently
2 emphasized that the Company was “committed to the continuous improvement of [its]
3 internal control over financial reporting” and that it would “continue to diligently review
4 [its] internal control over financial reporting.” Additionally, in various quarterly reports
5 filed with the SEC on Forms 10-Q throughout the Relevant Period, the Company stated
6 that its management had “concluded that [its] consolidated financial statements
7 present[ed] fairly, in all material respects, [the Company’s] financial position and were
8 drafted “in conformity with U.S. GAAP.”

9 85. The truth began to emerge on March 11, 2022 when the Company issued a
10 press release titled “Tattooed Chef to Restate 2021 Quarterly Financial Statements to
11 Recognize Deferred Tax Asset,” disclosing that the Board had concluded on March 7,
12 2022 that the Company’s unaudited interim condensed consolidated financial statements
13 for the quarters ended March 31, 2021, June 30, 2021 and September 30, 2021 should no
14 longer be relied upon because the Company had failed to properly record the tax effects
15 associated with the Company’s issuance of 825,000 shares of its common stock to
16 Harrison Co., the Company’s investment bank, in June 2021. The March 11, 2022 press
17 release also stated that the Company would restate prior period financial statements for
18 each of the quarterly periods ended March 31, 2021, June 30, 2021, and September 30,
19 2021.

20 86. On this news, the Company’s share price fell \$1.03 per share, or 9.07%,
21 from closing at \$11.36 per share on March 11, 2022 to close at \$10.33 per share on
22 March 14, 2022.

23 87. The truth fully emerged on October 12, 2022, when, after markets closed,
24 the Company filed a Form 8-K with the SEC, disclosing that various of the Company’s
25 financial statements issued throughout the Relevant Period were “materially misstated
26 and should no longer be relied upon and should be restated” because the Company had
27 incorrectly recorded its expenses on several occasions. Specifically, the Company
28

1 revealed that it had overstated revenue and understated losses for its “unaudited interim
 2 condensed consolidated financial statements for the quarters ended March 31, 2021, June
 3 30, 2021, and September 30, 2021, and its audited annual consolidated financial
 4 statements for the year ended December 31, 2021.” In addition, the Board, after
 5 consulting with the Audit Committee, determined that the Company’s unaudited interim
 6 condensed consolidated financial statements for the quarters ended March 31, 2022 and
 7 June 30, 2022 should no longer be relied upon and would also need to be restated.

8 88. On this news, the Company’s share price fell \$0.44 per share, or 9.8%, from
 9 closing at \$4.49 per share on October 12, 2022 to opening at \$4.05 per share on October
 10 13, 2022.

11 **False and Misleading Statements**

12 ***March 19, 2021 Form 10-K***

13 89. On March 19, 2021, after markets closed, the Company filed its annual
 14 report on Form 10-K with the SEC for the period ended December 31, 2020 (the “2020
 15 10-K”), which was signed by Defendants Galletti, Rosenberg, Ciaramitano, Gelfand,
 16 Williamson, Fellner, Olohan, Boris, and Quintero-Johnson. Attached to the 2020 10-K
 17 were certifications pursuant to Rules 13a-14(a) and 15(d)-14(a) under the Exchange Act
 18 and the Sarbanes-Oxley Act of 2002 (“SOX”) signed by Defendant Galletti and non-party
 19 Charles F. Cargile attesting to the accuracy of the 2020 10-K.

20 90. The 2020 10-K downplayed the serious problems the Company was facing
 21 with its internal controls. It stated the following about the Company’s “Controls and
 22 Procedures,” in relevant part:

23 We have begun the process of, and we are focused on, designing and
 24 implementing effective internal controls measures to improve our internal
 25 control over financial reporting and remediate the material weaknesses. Our
 26 efforts include a number of actions:

27 • We hired qualified staff and outside resources to segregate key functions
 28 within our financial and information technology processes supporting our
 internal controls over financial reporting.

1 • We developed internal controls documentation, including comprehensive
 2 accounting policies and procedures and designed, implemented, and tested
 3 new controls over key financial processes.

4 While these actions and planned actions are subject to ongoing management
 5 evaluation and will require validation and testing of the design and operating
 6 effectiveness of internal controls over a sustained period of financial
 7 reporting cycles, ***we are committed to the continuous improvement of our
 internal control over financial reporting and will continue to diligently
 review our internal control over financial reporting.***

8 (Emphasis added.)

9 91. The statements in paragraph ¶ 90 above were materially false and/or
 10 misleading and failed to disclose material adverse facts about the Company's business,
 11 operations, and prospects. Specifically, the identified statements failed to disclose that:
 12 (1) the Company continuously downplayed its serious problems with internal controls;
 13 (2) Tattooed Chef's financial statements filed during the Relevant Period contained
 14 "certain errors" such as overstating revenue and understating losses; and (3) due to this,
 15 the Company would need to restate its previously filed financial statements for certain
 16 periods. As a result of the foregoing, the Company's public statements were materially
 17 false and misleading and/or lacked a reasonable basis at all relevant times.

18 ***April 16, 2021 Proxy Statement***

19 92. On April 16, 2021, the Company filed a Schedule 14A with the SEC (the
 20 "2021 Proxy Statement"). Defendants Galletti, Boris, Ciaramitaro, Fellner, Gelfand,
 21 Olohan, Quintero-Johnson, Rosenberg, and Williamson solicited the 2021 Proxy
 22 Statement which contained material misstatements and omissions.

23 93. The 2021 Proxy Statement called for Company shareholders to vote to, *inter
 24 alia*, (1) elect Defendants Boris, Olohan, and Quintero-Johnson to the Board; (2) ratify
 25 the appointment of BDO USA, LLP ("BDO") as the Company's independent registered
 26 public accounting firm for the 2021 Fiscal Year; and (3) approve an amendment to the
 27 Company's 2020 Equity Incentive Plan (the "Plan") to increase the maximum annual
 28 amount of shares that may be granted under the Plan to any non-employee director who

1 serves as chairperson of a duly formed and authorized committee of the Board, when
 2 taken together with any cash fees paid to that director, by \$25,000 to \$125,000 (the
 3 “Incentive Amendment Proposal”).

4 94. With respect to the Company’s Code of Ethics, the 2021 Proxy Statement
 5 stated the following:

6 We have adopted a code of ethics that applies to all of our employees,
 7 officers and directors, including those officers responsible for financial
 8 reporting. The code of ethics is available on our website at
 9 www.tattooedchef.com. To the extent required by law, we expect to disclose
 10 any amendments to the code, or any waivers of its requirements, on our
 website.

11 95. Regarding the “Board’s Role in Risk Oversight,” the 2021 Proxy Statement
 12 stated the following:

13 The Board has ultimate responsibility for oversight of our risk management
 14 processes. The Board discharges this oversight responsibility through regular
 15 reports received from and discussions with senior management on areas of
 16 material risk exposure to us. The Board of Directors has overall
 17 responsibility for risk oversight, including, as part of regular Board and
 18 committee meetings, general oversight of executives’ management of risks
 19 relevant to the Company. While the full Board has overall responsibility for
 20 risk oversight and is currently overseeing our business continuity risks, such
 as risks relating to the COVID-19 pandemic, it is supported in this function
 by its audit committee, compensation committee, nominating and corporate
 governance committee, and food safety committee. Each of the committees
 regularly reports to the Board.

21 96. The 2021 Proxy Statement was materially misleading because it failed to
 22 disclose that: (1) though the Company claimed its employees, officers and directors
 23 adhered to the Code of Ethics and that it would disclose waivers of the policy, the
 24 Individual Defendants violated the Code of Ethics either without waivers or without such
 25 waivers being disclosed; and (2) contrary to the 2021 Proxy Statement’s descriptions of
 26 the Board’s and its committees’ risk oversight functions, the Board and its committees
 27 were not adequately exercising these functions and were causing or permitting the
 28 Company to issue false and misleading statements about it.

1 97. The 2021 Proxy Statement was also materially misleading because it failed
 2 to disclose, *inter alia*, that: (1) the Company continuously downplayed its serious
 3 problems with internal controls; (2) Tattooed Chef's financial statements filed during the
 4 Relevant Period contained "certain errors" such as overstating revenue and understating
 5 losses; and (3) due to this, the Company would need to restate its previously filed
 6 financial statements for certain periods. As a result of the foregoing, the Company's
 7 public statements were materially false and misleading and/or lacked a reasonable basis
 8 at all relevant times.

9 98. As a result of Defendants Galletti, Boris, Ciaramitaro, Fellner, Gelfand,
 10 Olohan, Quintero-Johnson, Rosenberg, and Williamson causing the 2021 Proxy
 11 Statement to be false and misleading, Company shareholders voted, *inter alia*, to: (1)
 12 elect Defendants Boris, Olohan, and Quintero-Johnson to the Board, allowing them to
 13 continue to breach their fiduciary duties to the Company; and (2) approve the Incentive
 14 Amendment Proposal, providing various of the Individual Defendants with material
 15 benefits.

16 ***May 18, 2021 Form 10-Q***

17 99. On May 18, 2021, the Company filed its quarterly report on Form 10-Q with
 18 the SEC for the period ended March 31, 2021 (the "1Q 2021 10-Q"), which was signed
 19 by Defendants Galletti and Dieckmann. Attached to the 1Q 2021 10-Q were certifications
 20 pursuant to Rule 13a-14(a) and 15(d)-14(a) under the Exchange Act and SOX signed by
 21 Defendants Galletti and Dieckmann attesting to the accuracy of the 1Q 2021 10-Q.

22 100. The 1Q 2021 10-Q revealed that, for the three months ended March 31,
 23 2021, the Company reported a net revenue of \$52,682,000 and a net loss of \$8,152,000.

24 101. The 1Q 2021 10-Q also downplayed the serious problems the Company was
 25 facing with its internal controls. It stated the following about the Company's "Controls
 26 and Procedures," in relevant part:

27 We have begun the process of, and we are focused on, designing and
 28 implementing effective internal controls measures to improve our internal

1 control over financial reporting and remediate the material weaknesses. Our
 2 efforts include a number of actions:

3

- 4 We hired qualified staff and outside resources to segregate key functions
 within our financial and information technology processes supporting our
 internal controls over financial reporting.
- 5 We developed internal controls documentation, including comprehensive
 accounting policies and procedures and designed, implemented, and tested
 new controls over key financial processes.

6
 7 While these actions and planned actions are subject to ongoing management
 8 evaluation and will require validation and testing of the design and operating
 9 effectiveness of internal controls over a sustained period of financial
 10 reporting cycles, we are committed to the continuous improvement of our
 internal control over financial reporting and will continue to diligently
 review our internal control over financial reporting.

11 102. Additionally, the subsection of “Controls and Procedures” titled “Evaluation
 12 of Disclosure Controls and Procedures” stated the following:

13 Our management, with the participation of our chief executive officer and
 14 chief financial officer, has evaluated the effectiveness of our disclosure
 15 controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under
 16 the Exchange Act) as of the end of the period covered by this Quarterly
 17 Report. Based on this evaluation, our chief executive officer and chief
 18 financial officer concluded that, as of March 31, 2021, our disclosure
 controls and procedures were not effective due to the material weaknesses in
 our internal control over financial reporting described above.

19 However, after giving full consideration to these material weaknesses, and
 20 the additional analyses and other procedures that we performed to ensure
 21 that our consolidated financial statements included in this Quarterly Report
 22 were prepared in accordance with U.S. GAAP, ***our management has
 concluded that our consolidated financial statements present fairly, in all
 material respects, our financial position, results of operations and cash
 flows for the periods disclosed in conformity with U.S. GAAP.***

23 (Emphasis added.)

24 103. Further, the subsection of “Controls and Procedures” titled “Changes in
 25 Internal Control Over Financial Reporting” stated the following:

26 Other than described above in this Item 4, ***there has been no change in our
 internal control over financial reporting during the fiscal quarter ended***

1 ***March 31, 2021 that has materially affected, or is reasonably likely to***
 2 ***materially affect, our internal control over financial reporting.***

3 (Emphasis added.)

4 104. The statements in the 1Q 2021 10-Q, as referenced in paragraphs ¶¶ 100-104
 5 above were materially false and/or misleading and failed to disclose material adverse
 6 facts about the Company's business, operations, and prospects. Specifically, the
 7 identified statements failed to disclose that: (1) the Company continuously downplayed
 8 its serious problems with internal controls; (2) Tattooed Chef's financial statements filed
 9 during the Relevant Period contained "certain errors" such as overstating revenue and
 10 understating losses; and (3) due to this, the Company would need to restate its previously
 11 filed financial statements for certain periods. As a result of the foregoing, the Company's
 12 public statements were materially false and misleading and/or lacked a reasonable basis
 13 at all relevant times.

14 ***August 16, 2021 Form 10-Q***

15 105. On August 16, 2021, the Company filed its quarterly report on Form 10-Q
 16 with the SEC for the period ended June 30, 2021 (the "2Q 2021 10-Q"), which was
 17 signed by Defendants Galletti and Dieckmann. Attached to the 2Q 2021 10-Q were
 18 certifications pursuant to Rule 13a-14(a) and 15(d)-14(a) under the Exchange Act and
 19 SOX signed by Defendants Galletti and Dieckmann attesting to the accuracy of the 2Q
 20 2021 10-Q.

21 106. The 2Q 2021 10-Q revealed that, for the three months ended June 30, 2021,
 22 the Company reported a net revenue of \$50,716,000 and a net loss of \$53,196,000. It
 23 further revealed that, for the six months ended June 30, 2021, the Company reported a net
 24 revenue of \$103,398,000 and a net loss of \$61,348,000.

25 107. The 2Q 2021 10-Q also downplayed the serious problems the Company was
 26 facing with its internal controls. The subsection of "Controls and Procedures" titled
 27 "Evaluation of Disclosure Controls and Procedures" stated the following, in relevant part:

1 Our management, with the participation of our chief executive officer and
 2 chief financial officer, has evaluated the effectiveness of our disclosure
 3 controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under
 4 the Exchange Act) as of the end of the period covered by this Quarterly
 5 Report. Based on this evaluation, our chief executive officer and chief
 6 financial officer concluded that, as of June 30, 2021, our disclosure controls
 7 and procedures were not effective due to the material weaknesses in our
 8 internal control over financial reporting described above.

9 However, after giving full consideration to these material weaknesses, and
 10 the additional analyses and other procedures that we performed to ensure
 11 that our consolidated financial statements included in this Quarterly Report
 12 were prepared in accordance with U.S. GAAP, ***our management has
 13 concluded that our consolidated financial statements present fairly, in all
 14 material respects, our financial position, results of operations and cash
 15 flows for the periods disclosed in conformity with U.S. GAAP.***

16 (Emphasis added.)

17 108. Further, the subsection of “Controls and Procedures” titled “Changes in
 18 Internal Control Over Financial Reporting” stated the following:

19 Other than described above in this Item 4, ***there has been no change in our
 20 internal control over financial reporting during the fiscal quarter ended
 21 June 30, 2021 that has materially affected, or is reasonably likely to
 22 materially affect, our internal control over financial reporting.***

23 (Emphasis added.)

24 109. The statements in the 2Q 2021 10-Q, as referenced in paragraphs ¶¶ 106-108
 25 above were materially false and/or misleading and failed to disclose material adverse
 26 facts about the Company’s business, operations, and prospects. Specifically, the
 27 identified statements failed to disclose that: (1) the Company continuously downplayed
 28 its serious problems with internal controls; (2) Tattooed Chef’s financial statements filed
 during the Relevant Period contained “certain errors” such as overstating revenue and
 understating losses; and (3) due to this, the Company would need to restate its previously
 filed financial statements for certain periods. As a result of the foregoing, the Company’s
 public statements were materially false and misleading and/or lacked a reasonable basis
 at all relevant times.

November 22, 2021 Form 10-Q

110. On November 22, 2021, the Company filed its quarterly report on Form 10-Q with the SEC for the period ended September 30, 2021 (the “3Q 2021 10-Q”), which was signed by Defendants Galletti and Dieckmann. Attached to the 3Q 2021 10-Q were certifications pursuant to Rule 13a-14(a) and 15(d)-14(a) under the Exchange Act and SOX signed by Defendants Galletti and Dieckmann attesting to the accuracy of the 3Q 2021 10-Q.

111. The 3Q 2021 10-Q revealed that, for the three months ended September 30, 2021, the Company reported a net revenue of \$58,780,000 and a net loss of \$8,174,000. It further revealed that, for the nine months ended September 30, 2021, the Company reported a net revenue of \$161,972,000 and a net loss of \$70,095,000.

112. The 3Q 2021 10-Q also downplayed the serious problems the Company was facing with its internal controls. The subsection of “Controls and Procedures” titled “Evaluation of Disclosure Controls and Procedures” stated the following, in relevant part:

Our management, with the participation of our chief executive officer and chief financial officer, has evaluated the effectiveness of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this Quarterly Report. Based on this evaluation, our chief executive officer and chief financial officer concluded that, as of September 30, 2021, our disclosure controls and procedures were not effective due to the material weaknesses in our internal control over financial reporting described above.

However, after giving full consideration to these material weaknesses, and the additional analyses and other procedures that we performed to ensure that our consolidated financial statements included in this Quarterly Report were prepared in accordance with U.S. GAAP, ***our management has concluded that our consolidated financial statements present fairly, in all material respects, our financial position, results of operations and cash flows for the periods disclosed in conformity with U.S. GAAP.***

(Emphasis added.)

1 113. Further, the subsection of “Controls and Procedures” titled “Changes in
 2 Internal Control Over Financial Reporting” stated the following:
 3

4 Other than described above in this Item 4, ***there has been no change in our***
 5 ***internal control over financial reporting during the fiscal quarter ended***
 6 ***September 30, 2021 that has materially affected, or is reasonably likely to***
materially affect, our internal control over financial reporting.

7 (Emphasis added.)

8 114. The statements in the 3Q 2021 10-Q, as referenced in paragraphs ¶¶ 111-113
 9 above were materially false and/or misleading and failed to disclose material adverse
 10 facts about the Company’s business, operations, and prospects. Specifically, the
 11 identified statements failed to disclose that: (1) the Company continuously downplayed
 12 its serious problems with internal controls; (2) Tattooed Chef’s financial statements filed
 13 during the Relevant Period contained “certain errors” such as overstating revenue and
 14 understating losses; and (3) due to this, the Company would need to restate its previously
 15 filed financial statements for certain periods. As a result of the foregoing, the Company’s
 16 public statements were materially false and misleading and/or lacked a reasonable basis
 17 at all relevant times.

18 **The Truth Begins to Emerge as the False and Misleading Statements Continue**

19 **March 11, 2022 Press Release**

20 115. On March 11, 2022, the Company issued a press release revealing that on
 21 March 7, 2022, the Board “concluded that the Company’s unaudited interim condensed
 22 consolidated financial statements for the quarters ended March 31, 2021, June 30, 2021
 23 and September 30, 2021, each as previously filed with the [SEC], should no longer be
 24 relied upon because the Company did not properly record the tax effects associated with
 25 the Company’s issuance of 825,000 shares of its common stock to Harrison Co. in June
 26 2021 as partial consideration for services rendered in connection with the Company’s de-
 27 SPAC transaction that occurred in October 2020.” The Board reached this conclusion
 28

1 “based on consultation with Company management and upon the recommendation of the
 2 Audit Committee.”

3 116. As a result, the Company disclosed that it would “restate the unaudited
 4 consolidated financial statements” at issue.

5 117. On this news, the Company’s share price fell \$1.03 per share, or 9.07%,
 6 from closing at \$11.36 per share on March 11, 2022 to close at \$10.33 per share on
 7 March 14, 2022.

8 ***March 16, 2022 Form 10-K***

9 118. On March 16, 2022, the Company filed the 2021 10-K with the SEC for the
 10 fourth quarter and full year 2021, ended December 31, 2021, which was signed by
 11 Defendants Galletti, Dieckmann, Rosenberg, Ciaramitato, Gelfand, Williamson, Fellner,
 12 Boris, and Quintero-Johnson. Attached to the 2021 10-K were certifications pursuant to
 13 Rule 13a-14(a) and 15(d)-14(a) under the Exchange Act and SOX signed by Defendants
 14 Galletti and Dieckmann attesting to the accuracy of the 2021 10-K.

15 119. The 2021 10-K revealed that, for the 2021 Fiscal Year, the Company
 16 reported a net revenue of \$213,430,000 and a net loss of \$87,404,000.

17 120. The 2021 10-K downplayed the serious problems the Company was facing
 18 with its internal controls. The subsection of “Controls and Procedures” titled “Material
 19 Weaknesses in Internal Control Over Financial Reporting” stated the following, in
 20 relevant part:

21 However, after giving full consideration to these material weaknesses, and
 22 the additional analyses and other procedures that we performed to ensure
 23 that our consolidated financial statements included in this Annual Report on
 24 Form 10-K were prepared in accordance with U.S. GAAP, ***our management
 25 has concluded that our consolidated financial statements present fairly, in
 26 all material respects, our financial position, results of operations and cash
 27 flows for the periods disclosed in conformity with U.S. GAAP.***

28 (Emphasis added.)

1 121. Further, the subsection of “Controls and Procedures” titled “Remediation of
 2 Material Weaknesses” stated the following:

3 We have begun the process of, and we are focused on, designing and
 4 implementing effective measures to improve our internal controls over
 5 financial reporting and remediate the material weaknesses. Our efforts
 6 include a number of actions:

- 7 • Hired qualified staff and outside resources to segregate key functions
 8 within our financial and information technology processes supporting our
 9 internal controls over financial reporting;
- 10 • Hired several qualified accounting professionals with appropriate level of
 11 expense and training to design, maintain and improve our accounting
 12 policies, procedures and controls to prevent and detect material
 13 misstatements related to the presentation and disclosures of the consolidated
 14 financial statements;
- 15 • Developed internal controls documentation, including comprehensive
 16 accounting policies and procedures over certain key financial processes and
 17 related disclosures; and,
- 18 • Drafted position papers for all complex, non-recurring transactions.

19 While these actions and planned actions are subject to ongoing management
 20 evaluation and will require validation and testing of the design and operating
 21 effectiveness of internal controls over a sustained period of financial
 22 reporting cycles, ***we are committed to the continuous improvement of our
 23 internal control over financial reporting and will continue to diligently
 24 review our internal control over financial reporting.***

25 (Emphasis added.)

26 122. Additionally, the subsection of “Controls and Procedures” titled “Changes in
 27 Internal Control Over Financial Reporting” stated the following:

28 Other than described above in this Item 9A, ***there has been no change in
 29 our internal control over financial reporting during the fiscal year ended
 30 December 31, 2021 that has materially affected, or is reasonably likely to
 31 materially affect, our internal control over financial reporting.***

32 (Emphasis added.)

33 123. The statements contained in the 2021 10-K, as referenced in paragraphs ¶¶
 34 119-122 above, were materially false and/or misleading and failed to disclose material
 35

1 adverse facts about the Company's business, operations, and prospects. Specifically, the
 2 identified statements failed to disclose that: (1) the Company continuously downplayed
 3 its serious problems with internal controls; (2) Tattooed Chef's financial statements filed
 4 during the Relevant Period contained "certain errors" such as overstating revenue and
 5 understating losses; and (3) due to this, the Company would need to restate its previously
 6 filed financial statements for certain periods. As a result of the foregoing, the Company's
 7 public statements were materially false and misleading and/or lacked a reasonable basis
 8 at all relevant times.

9 ***April 21, 2022 Proxy Statement***

10 124. On April 21, 2022, the Company filed the 2022 Proxy Statement with the
 11 SEC. Defendants Fellner, Gelfand, Williamson, Ciaramitaro, Galletti, Rosenberg, Boris,
 12 Olohan, and Quintero-Johnson solicited the 2022 Proxy Statement which contained
 13 material misstatements and omissions.

14 125. The 2022 Proxy Statement called for Company shareholders to vote to, *inter*
 15 *alia*: (1) elect Defendants Fellner, Gelfand, and Williamson to the Board; and (2) ratify
 16 the appointment of Deloitte & Touche, LLP ("Deloitte") as the Company's independent
 17 registered public accounting firm for the fiscal year ending December 31, 2022.

18 126. With respect to the Company's Code of Ethics, the 2022 Proxy Statement
 19 stated the following:

20 We have adopted a code of ethics that applies to all of our employees,
 21 officers and directors, including those officers responsible for financial
 22 reporting. The code of ethics is available on our website at
 23 www.tattooedchef.com. To the extent required by law, we expect to disclose
 24 any amendments to the code, or any waivers of its requirements, on our
 website.

25 127. Regarding the "Board's Role in Risk Oversight," the 2022 Proxy Statement
 26 stated the following:

27 Our Board has ultimate responsibility for oversight of our risk management
 28 processes. Our Board discharges this oversight responsibility through regular
 reports received from and discussions with senior management on areas of

1 material risk exposure to us. Our Board has overall responsibility for risk
 2 oversight, including, as part of regular Board and committee meetings,
 3 general oversight of executives' management of risks relevant to our
 4 business. While the full Board has overall responsibility for risk oversight
 5 and is currently overseeing our business continuity risks, such as risks
 6 relating to the COVID-19 pandemic, it is supported in this function by the
 7 audit committee, compensation committee, nominating and corporate
 8 governance committee, and food safety committee. Each of the committees
 9 regularly reports to our Board.

10 128. The 2022 Proxy Statement was materially misleading because it failed to
 11 disclose that: (1) though the Company claimed its employees, officers and directors
 12 adhered to the Code of Ethics and that it would disclose waivers of the policy, the
 13 Individual Defendants violated the Code of Ethics either without waivers or without such
 14 waivers being disclosed; and (2) contrary to the 2022 Proxy Statement's descriptions of
 15 the Board's and its committees' risk oversight functions, the Board and its committees
 16 were not adequately exercising these functions and were causing or permitting the
 17 Company to issue false and misleading statements about it.

18 129. The 2022 Proxy Statement was also materially misleading because it failed
 19 to disclose, *inter alia*, that: (1) the Company continuously downplayed its serious
 20 problems with internal controls; (2) Tattooed Chef's financial statements filed during the
 21 Relevant Period contained "certain errors" such as overstating revenue and understating
 22 losses; and (3) due to this, the Company would need to restate its previously filed
 23 financial statements for certain periods. As a result of the foregoing, the Company's
 24 public statements were materially false and misleading and/or lacked a reasonable basis
 25 at all relevant times.

26 130. As a result of Defendants Fellner, Gelfand, Williamson, Ciaramitano,
 27 Galletti, Rosenberg, Boris, Olohan, and Quintero-Johnson causing the 2022 Proxy
 28 Statement to be false and misleading, Company shareholders voted, *inter alia*, to elect
 Defendants Fellner, Gelfand, and Williamson to the Board, allowing them to continue to
 breach their fiduciary duties to the Company.

The Truth Fully Emerges

131. On October 12, 2022, the Company revealed on a Form 8-K filed with the SEC (the “October 12th 8-K”) that it would be restating its financial statements filed with the SEC between March 31, 2021 and October 12, 2022 because they contained various errors. In particular, the October 12th 8-K stated the following about the Company’s need for a restatement:

On October 6, 2022, Tattooed Chef, Inc. (the “Company”) received a written notice pursuant to Item 4.02(b) from the Company’s former independent registered public accounting firm, BDO USA, LLP, that ***the Company’s unaudited interim condensed consolidated financial statements for the quarters ended March 31, 2021, June 30, 2021 and September 30, 2021, and its audited annual consolidated financial statements for the year ended December 31, 2021, and accompanying audit report, each as previously filed with the Securities and Exchange Commission (“SEC”), were materially misstated and should no longer be relied upon and should be restated***, because the Company ***(a) incorrectly recorded expenses related to a multi-vendor mailer program with a large customer as operating expenses rather than as a reduction of revenue; and (b) incorrectly recorded expenses for advertising placement by a marketing services firm on a straight-line basis over the life of the contract rather than when the services were actually rendered***. For these reasons, pursuant to Item 4.02(a) the Board, after consultation with the Audit Committee, has also determined that the Company’s unaudited interim condensed consolidated financial statements for the quarters ended March 31, 2022 and June 30, 2022 should no longer be relied upon.

(Emphasis added.)

132. The October 12th 8-K stated the following regarding the estimated impact of these restatements on the Company for the three months ended March 31, 2021:

The estimated impact of these restatements on the Company's unaudited interim condensed consolidated financial statements for the three months ended March 31, 2021 is expected to be a \$2 million decrease in revenue, a \$2 million decrease in gross profit, a \$3 million decrease in operating expenses, and a \$1 million decrease in net loss.

(Emphasis added.)

1 133. The October 12th 8-K stated the following regarding the estimated impact of
 2 these restatements on the Company for the three months and six months ended June 30,
 3 2021:

4 *The estimated impact of these restatements on the Company's unaudited
 5 interim condensed consolidated financial statements for the three months
 6 ended June 30, 2021 is expected to be a \$3 million decrease in revenue, a
 7 \$3 million decrease in gross profit, a \$1 million increase in operating
 8 expenses, and a \$4 million increase in net loss.*

9 *The estimated impact of these restatements for the six months ended June
 10 30, 2021 is expected to be a \$5 million decrease in revenue, a \$5 million
 11 decrease in gross profit, a \$2 million decrease in operating expenses, and a
 12 \$3 million increase in net loss.*

13 (Emphasis added.)

14 134. The October 12th 8-K stated the following regarding the estimated impact of
 these restatements on the Company for the three months and nine months ended
 September 30, 2021:

15 *The estimated impact of these restatements on the Company's unaudited
 16 interim condensed consolidated financial statements for the three months
 17 ended September 30, 2021 is expected to be a \$0.6 million decrease in
 18 operating expenses and a \$0.5 million decrease in net loss.*

19 *The estimated impact of these restatements for the nine months ended
 20 September 30, 2021 is expected to be a \$5 million decrease in revenue, a
 21 \$5 million decrease in gross profit, a \$3 million decrease in operating
 22 expenses, and a \$2 million increase in net loss.*

23 (Emphasis added.)

24 135. The October 12th 8-K stated the following regarding the estimated impact of
 these restatements on the Company for the twelve months ended December 31, 2021:

25 *The estimated impact of the restatements on the Company's annual
 26 consolidated financial statements for the twelve months ended December
 27 31, 2021 is expected to be a \$5 million decrease in revenue, a \$5 million
 28 decrease in gross profit, a \$4 million decrease in operating expenses, and a
 \$1 million increase in net loss.*

29 (Emphasis added.)

1 136. The October 12th 8-K stated the following regarding the estimated impact of
 2 these restatements on the Company for the three months ended March 31, 2022:
 3

4 ***The estimated impact of these restatements on the Company's unaudited***
 5 ***interim condensed consolidated financial statements for the three months***
 6 ***ended March 31, 2022 is expected to be a \$4 million decrease in revenue, a***
\$4 million decrease in gross profit, a \$1 million decrease in operating
expenses, and a \$3 million increase in net loss.

7 (Emphasis added.)

8 137. The October 12th 8-K stated the following regarding the estimated impact of
 9 these restatements on the Company for the three months and sixth months ended June 30,
 10 2022:
 11

12 ***The estimated impact of these restatements on the Company's unaudited***
 13 ***interim condensed consolidated financial statements for the three months***
 14 ***ended June 30, 2022 is expected to be less than a \$1 million decrease in***
revenue, decrease in gross profit, increase in operating expenses and
increase in net loss.

15 ***The estimated impact of these restatements for the six months ended June***
 16 ***30, 2022 is expected to be a \$5 million decrease in revenue, a \$5 million***
decrease in gross profit, a \$1 million decrease in operating expenses, and a
\$4 million increase in net loss.

17 (Emphasis added.)

18 138. On this news, Tattooed Chef's share price fell \$0.44 per share, or 9.8%,
 19 from closing at \$4.49 per share on October 12, 2022 to opening at \$4.05 per share on
 20 October 13, 2022.

21 **DAMAGES TO TATTOOED CHEF**

22 139. As a direct and proximate result of the Individual Defendants' conduct,
 23 Tattooed Chef has lost and will continue to lose and expend many millions of dollars.

24 140. Such expenditures include, but are not limited to, the costs, legal fees,
 25 arbitration fees, and/or other fees associated with the Securities Class Action filed against
 26 the Company, its CEO, and its CFO, and any internal investigations and amounts paid to
 27 outside lawyers, accountants, and investigators in connection thereto.

141. Additionally, these expenditures include, but are not limited to, unjust compensation, benefits, and other payments provided to the Individual Defendants who breached their fiduciary duties to the Company.

142. As a direct and proximate result of the Individual Defendants' conduct, Tattooed Chef has also suffered and will continue to suffer a loss of reputation and goodwill, and a "liar's discount" that will plague the Company's stock in the future due to the Company's and their misrepresentations and the Individual Defendants' breaches of fiduciary duties and unjust enrichment.

DERIVATIVE ALLEGATIONS

143. Plaintiff brings this action derivatively and for the benefit of Tattooed Chef to redress injuries suffered, and to be suffered, as a result of the Individual Defendants' breaches of their fiduciary duties as controlling shareholder, directors and/or officers of Tattooed Chef, gross mismanagement, abuse of control, waste of corporate assets, unjust enrichment, violations of the Exchange Act, the aiding and abetting thereof, as well as for contribution under Sections 10(b) and 21D of the Exchange Act.

144. Tattooed Chef is named solely as a nominal party in this action. This is not a collusive action to confer jurisdiction on this Court that it would not otherwise have.

145. Plaintiff is, and has been at all relevant times, a shareholder of Tattooed Chef. Plaintiff will adequately and fairly represent the interests of Tattooed Chef in enforcing and prosecuting its rights, and, to that end, has retained competent counsel, experienced in derivative litigation, to enforce and prosecute this action.

DEMAND FUTILITY ALLEGATIONS

146. Plaintiff incorporates by reference and re-alleges each and every allegation stated above as if fully set forth herein.

147. A pre-suit demand on the Board of Tattooed Chef is futile and, therefore, excused. At the time of the filing of this complaint, the Board consists of the following nine individuals: Defendants Galletti, Boris, Ciaramitaro, Fellner, Gelfand, Olohan,

1 Quintero-Johnson, Rosenberg, and Williamson (collectively, the “Director-Defendants”).
2 Plaintiff needs only to allege demand futility as to five of the nine Director-Defendants
3 that were on the Board at the time of the filing of this complaint.

4 148. Demand is excused as to all of the Director-Defendants because each one of
5 them faces, individually and collectively, a substantial likelihood of liability as a result of
6 the scheme they engaged in knowingly or recklessly to cause the Company to make false
7 and misleading statements and omissions of material fact, while one of them engaged in
8 insider sales based on material non-public information, all of which renders the Director-
9 Defendants unable to impartially investigate the charges and decide whether to pursue
10 action against themselves and the other perpetrators of the scheme.

11 149. In complete abdication of their fiduciary duties, the Director-Defendants
12 either knowingly or recklessly participated in causing the Company to make the
13 materially false and misleading statements alleged herein. The fraudulent scheme was
14 intended to make the Company appear more profitable and attractive to investors.
15 Moreover, the Director-Defendants caused the Company to fail to maintain internal
16 controls. As a result of the foregoing, the Director-Defendants breached their fiduciary
17 duties, face a substantial likelihood of liability, are not disinterested, and demand upon
18 them is futile, and thus excused.

19 150. Moreover, Defendants Galletti, Boris, Ciaramitaro, Fellner, Gelfand,
20 Olohan, Quintero-Johnson, Rosenberg, and Williamson caused the 2021 Proxy Statement
21 to call for a shareholder vote to approve the Incentive Amendment Proposal, which
22 provided for a \$25,000 increase of the maximum annual amount of shares that may be
23 granted under the Plan to any non-employee director who serves as chairperson of a
24 Board committee, when taken together with any cash fees paid to that director, from
25 \$100,000 (under the existing Plan) to \$125,000 (under the Incentive Amendment
26 Proposal). The misrepresentations and omissions set forth herein were material to
27 shareholders in voting on the Incentive Amendment Proposal who would not have
28

1 approved the Incentive Amendment Proposal had they been informed about the
2 Individual Defendants' materially false and misleading statements and omissions
3 regarding the overall health of the Company. As a result of shareholder approval of the
4 Incentive Amendment Proposal, Defendants Gelfand and Rosenberg undeservedly
5 received approximately \$125,000 each in performance-based stock awards during the
6 2021 Fiscal Year. For this reason, too, the Director-Defendants face a substantial
7 likelihood of liability and demand is futile as to them.

8 151. Additional reasons that demand on Defendant Galletti is futile follow.
9 Defendant Galletti is the Company's CEO, President, the Chairman of the Board, and a
10 controlling shareholder of the Company. Thus, as the Company admits, he is a non-
11 independent director. The Company provides Defendant Galletti with his principal
12 occupation for which he receives handsome compensation. As CEO, Defendant Galletti
13 was ultimately responsible for all of the materially false and misleading statements and
14 omissions that were made during the Relevant Period, including those which he signed in
15 the 2020 10-K, the 1Q 2021 10-Q, the 2Q 2021 10-Q, the 3Q 2021 10-Q, and the 2021
16 10-K. As the Company's highest officer and as the trusted Board Chairman, Defendant
17 Galletti conducted little, if any, oversight of the scheme to cause the Company to make
18 false and misleading statements, consciously disregarded his duties to monitor internal
19 controls over reporting and engagement in the scheme, and consciously disregarded his
20 duties to protect corporate assets. In addition, Defendant Galletti's insider sales, which
21 yielded approximately \$8,000,000 in proceeds, demonstrate his motive in facilitating and
22 participating in the fraud. Moreover, Defendant Galletti is a defendant in the Securities
23 Class Action. For these reasons, Defendant Galletti breached his fiduciary duties, faces a
24 substantial likelihood of liability, is not independent or disinterested, and thus demand
25 upon him is futile and, therefore, excused.

26 152. Additional reasons that demand on Defendant Boris is futile follow.
27 Defendant Boris has served as a Company director since 2018. He also serves as a
28

1 member of the Compensation Committee. Additionally, Defendant Boris has received
2 and continues to receive compensation for his role as a director as described above. As a
3 trusted Company director, he conducted little, if any, oversight of the scheme to cause the
4 Company to make false and misleading statements, consciously disregarded his duties to
5 monitor such controls over reporting and engagement in the scheme, and consciously
6 disregarded his duties to protect corporate assets. This is even more alarming considering
7 his extensive background in corporate finance, investment banking, and capital market
8 activities. Furthermore, Defendant Boris signed the 2020 10-K and the 2021 10-K which
9 contained false and misleading statements. For these reasons, Defendant Boris breached
10 his fiduciary duties, faces a substantial likelihood of liability, is not independent or
11 disinterested, and thus demand upon him is futile and, therefore, excused.

12 153. Additional reasons that demand on Defendant Ciaramitato is futile follow.
13 Defendant Ciaramitato has served as a Company director since 2020. She also serves as a
14 member of the Audit Committee and the Nominating and Corporate Governance
15 Committee. Additionally, Defendant Ciaramitato has received and continues to receive
16 compensation for her role as a director as described above. As a trusted Company
17 director, she conducted little, if any, oversight of the scheme to cause the Company to
18 make false and misleading statements, consciously disregarded her duties to monitor such
19 controls over reporting and engagement in the scheme, and consciously disregarded her
20 duties to protect corporate assets. This is even more alarming considering her extensive
21 background as a financial executive. Furthermore, Defendant Ciaramitato signed the
22 2020 10-K and the 2021 10-K which contained false and misleading statements. For these
23 reasons, Defendant Ciaramitato breached her fiduciary duties, faces a substantial
24 likelihood of liability, is not independent or disinterested, and thus demand upon her is
25 futile and, therefore, excused.

26 154. Additional reasons that demand on Defendant Fellner is futile follow.
27 Defendant Fellner has served as a Company director since 2020. She also serves as a
28

1 member of the Compensation Committee. Additionally, Defendant Fellner has received
2 and continues to receive compensation for her role as a director as described above. As a
3 trusted Company director, she conducted little, if any, oversight of the scheme to cause
4 the Company to make false and misleading statements, consciously disregarded her
5 duties to monitor such controls over reporting and engagement in the scheme, and
6 consciously disregarded her duties to protect corporate assets. Furthermore, Defendant
7 Fellner signed the 2020 10-K and the 2021 10-K which contained false and misleading
8 statements. For these reasons, Defendant Fellner breached her fiduciary duties, faces a
9 substantial likelihood of liability, is not independent or disinterested, and thus demand
10 upon her is futile and, therefore, excused.

11 155. Additional reasons that demand on Defendant Gelfand is futile follow.
12 Defendant Gelfand has served as a Company director since 2020. He also serves as
13 Chairman of the Audit Committee and as a member of the Nominating and Corporate
14 Governance Committee. Additionally, Defendant Gelfand has received and continues to
15 receive compensation for his role as a director as described above. As a trusted Company
16 director, he conducted little, if any, oversight of the scheme to cause the Company to
17 make false and misleading statements, consciously disregarded his duties to monitor such
18 controls over reporting and engagement in the scheme, and consciously disregarded his
19 duties to protect corporate assets. This is even more alarming considering his extensive
20 background in public company filings. Furthermore, Defendant Gelfand signed the 2020
21 10-K and the 2021 10-K which contained false and misleading statements. For these
22 reasons, Defendant Gelfand breached his fiduciary duties, faces a substantial likelihood
23 of liability, is not independent or disinterested, and thus demand upon him is futile and,
24 therefore, excused.

25 156. Additional reasons that demand on Defendant Olohan is futile follow.
26 Defendant Olohan has served as a Company director since 2020. He also serves as
27 Chairman of the Food Safety Committee. Additionally, Defendant Olohan has received
28

1 and continues to receive compensation for his role as a director as described above. As a
2 trusted Company director, he conducted little, if any, oversight of the scheme to cause the
3 Company to make false and misleading statements, consciously disregarded his duties to
4 monitor such controls over reporting and engagement in the scheme, and consciously
5 disregarded his duties to protect corporate assets. Furthermore, Defendant Olohan signed
6 the 2020 10-K which contained false and misleading statements. For these reasons,
7 Defendant Olohan breached his fiduciary duties, faces a substantial likelihood of liability,
8 is not independent or disinterested, and thus demand upon him is futile and, therefore,
9 excused.

10 157. Additional reasons that demand on Defendant Quintero-Johnson is futile
11 follow. Defendant Quintero-Johnson has served as a Company director since 2020. She
12 also serves as a member of the Audit Committee and the Food Safety Committee.
13 Additionally, Defendant Quintero-Johnson has received and continues to receive
14 compensation for her role as a director as described above. As a trusted Company
15 director, she conducted little, if any, oversight of the scheme to cause the Company to
16 make false and misleading statements, consciously disregarded her duties to monitor such
17 controls over reporting and engagement in the scheme, and consciously disregarded her
18 duties to protect corporate assets. This is even more alarming considering her extensive
19 background in accounting. Furthermore, Defendant Quintero-Johnson signed the 2020
20 10-K and the 2021 10-K which contained false and misleading statements. For these
21 reasons, Defendant Quintero-Johnson breached her fiduciary duties, faces a substantial
22 likelihood of liability, is not independent or disinterested, and thus demand upon her is
23 futile and, therefore, excused.

24 158. Additional reasons that demand on Defendant Rosenberg is futile follow.
25 Defendant Rosenberg has served as a Company director since 2020. He also serves as
26 Chairman of the Compensation Committee and as a member of the Food Safety
27 Committee. Additionally, Defendant Rosenberg has received and continues to receive
28

1 compensation for his role as a director as described above. As a trusted Company
 2 director, he conducted little, if any, oversight of the scheme to cause the Company to
 3 make false and misleading statements, consciously disregarded his duties to monitor such
 4 controls over reporting and engagement in the scheme, and consciously disregarded his
 5 duties to protect corporate assets. Furthermore, Defendant Rosenberg signed the 2020 10-
 6 K and the 2021 10-K which contained false and misleading statements. For these reasons,
 7 Defendant Rosenberg breached his fiduciary duties, faces a substantial likelihood of
 8 liability, is not independent or disinterested, and thus demand upon him is futile and,
 9 therefore, excused.

10 159. Additional reasons that demand on Defendant Williamson is futile follow.
 11 Defendant Williamson has served as a Company director since 2020. He also serves as
 12 Chairman of the Nominating and Corporate Governance Committee. Additionally,
 13 Defendant Williamson has received and continues to receive compensation for his role as
 14 a director as described above. As a trusted Company director, he conducted little, if any,
 15 oversight of the scheme to cause the Company to make false and misleading statements,
 16 consciously disregarded his duties to monitor such controls over reporting and
 17 engagement in the scheme, and consciously disregarded his duties to protect corporate
 18 assets. This is even more alarming considering his extensive background in operations,
 19 finance, and accounting. Furthermore, Defendant Williamson signed the 2020 10-K and
 20 the 2021 10-K which contained false and misleading statements. For these reasons,
 21 Defendant Williamson breached his fiduciary duties, faces a substantial likelihood of
 22 liability, is not independent or disinterested, and thus demand upon him is futile and,
 23 therefore, excused.

24 160. Additional reasons that demand on the Board is futile follow.

25 161. Moreover, Defendants Ciaramitato, Gelfand, and Quintero-Johnson served
 26 as members of the Audit Committee during the Relevant Period, with Defendant Gelfand
 27 serving as Chairman. In violation of the Audit Committee Charter, Defendants
 28

1 Ciaramitaro, Gelfand, and Quintero-Johnson failed to adequately review and discuss the
2 Company's Forms 10-K, Forms 10-Q, and proxy statements; failed to adequately
3 exercise their risk management and risk assessment functions; and failed to ensure
4 adequate Board oversight of the Company's internal control over financial reporting,
5 disclosure controls and procedures, and Code of Ethics. Thus, Defendants Ciaramitaro,
6 Gelfand, and Quintero-Johnson further breached their fiduciary duties, are not
7 disinterested, and demand is excused as to them.

8 162. In violation of the Code of Ethics, the Director-Defendants conducted little,
9 if any, oversight of the Company's engagement in the Individual Defendants' scheme to
10 issue materially false and misleading statements to the public, and to facilitate and
11 disguise the Individual Defendants' violations of law, including breaches of fiduciary
12 duty, gross mismanagement, abuse of control, waste of corporate assets, unjust
13 enrichment, violations of Section 14(a) of the Exchange Act, and for contribution under
14 Sections 10(b) and 21D of the Exchange Act. In violation of the Code of Ethics, the
15 Director-Defendants failed to comply with laws and regulations, maintain the accuracy of
16 company records, public reports and communications, and uphold the responsibilities
17 related thereto. Thus, the Director-Defendants face a substantial likelihood of liability
18 and demand is futile as to them.

19 163. Tattooed Chef has been and will continue to be exposed to significant losses
20 due to the wrongdoing complained of herein, yet the Director-Defendants have not filed
21 any lawsuits against themselves or others who were responsible for that wrongful conduct
22 to attempt to recover for Tattooed Chef any part of the damages Tattooed Chef suffered
23 and will continue to suffer thereby. Thus, any demand upon the Director-Defendants
24 would be futile.

25 164. The Individual Defendants' conduct described herein and summarized above
26 could not have been the product of legitimate business judgment as it was based on bad
27 faith and intentional, reckless, or disloyal misconduct. Thus, none of the Director-
28

1 Defendants can claim exculpation from their violations of duty pursuant to the
2 Company's charter (to the extent such a provision exists). As all of the Director-
3 Defendants face a substantial likelihood of liability, they are self-interested in the
4 transactions challenged herein and cannot be presumed to be capable of exercising
5 independent and disinterested judgment about whether to pursue this action on behalf of
6 the shareholders of the Company. Accordingly, demand is excused as being futile.
7

8 165. The acts complained of herein constitute violations of fiduciary duties owed
9 by Tattooed Chef's officers and directors, and these acts are incapable of ratification.
10

11 166. The Director-Defendants may also be protected against personal liability for
12 their acts of mismanagement and breaches of fiduciary duty alleged herein by directors'
13 and officers' liability insurance if they caused the Company to purchase it for their
14 protection with corporate funds, i.e., monies belonging to the stockholders of Tattooed
15 Chef. If there is a directors' and officers' liability insurance policy covering the Director-
16 Defendants, it may contain provisions that eliminate coverage for any action brought
17 directly by the Company against the Director-Defendants, known as, *inter alia*, the
18 "insured-versus-insured exclusion." As a result, if the Director-Defendants were to sue
19 themselves or certain of the officers of Tattooed Chef, there would be no directors' and
20 officers' insurance protection. Accordingly, the Director-Defendants cannot be expected
21 to bring such a suit. On the other hand, if the suit is brought derivatively, as this action is
22 brought, such insurance coverage, if such an insurance policy exists, will provide a basis
23 for the Company to effectuate a recovery. Thus, demand on the Director-Defendants is
24 futile and, therefore, excused.
25

26 167. If there is no directors' and officers' liability insurance, then the Director-
27 Defendants will not cause Tattooed Chef to sue the Individual Defendants named herein,
28 since, if they did, they would face a large uninsured individual liability. Accordingly,
demand is futile in that event, as well.
29

168. Thus, for all of the reasons set forth above, all of the Director-Defendants, and, if not all of them, at least five of them, cannot consider a demand with disinterestedness and independence. Consequently, a demand upon the Board is excused as futile.

FIRST CLAIM

Against Individual Defendants for Violations of Section 14(a) of the Exchange Act

169. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above, as though fully set forth herein.

170. Section 14(a) of the Exchange Act, 15 U.S.C. § 78n(a)(1), provides that “[i] shall be unlawful for any person, by use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, in contravention of such rules and regulations as the [SEC] may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any security (other than an exempted security) registered pursuant to section 12 of this title [15 U.S.C. § 78l].”

171. Rule 14a-9, promulgated pursuant to § 14(a) of the Exchange Act, provides that no proxy statement shall contain “any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading.” 17 C.F.R. § 240.14a-9.

172. Under the direction and watch of the Director-Defendants, the 2021 Proxy Statement and 2022 Proxy Statement (the “Proxy Statements”) failed to disclose that contrary to the Proxy Statements’ descriptions of the Board’s risk oversight function and the Audit Committee’s responsibilities, the Board and its committees were not adequately exercising these functions and were causing or permitting the Company to issue false and misleading statements.

1 173. The Proxy Statements also failed to disclose that: (1) the Company
2 continuously downplayed its serious problems with internal controls; (2) Tattooed Chef's
3 financial statements filed during the Relevant Period contained "certain errors" such as
4 overstating revenue and understating losses; and (3) due to this, the Company would need
5 to restate its previously filed financial statements for certain periods. As a result of the
6 foregoing, the Proxy Statements were materially false and misleading.

7 174. The Individual Defendants also caused the 2021 Proxy Statement to be false
8 and misleading with regard to executive compensation in that it purported to employ
9 performance-based compensation elements while failing to disclose that the Company's
10 revenues and losses, and therefore its financial performance, were misrepresented as a
11 result of false and misleading statements, thus allowing the Individual Defendants to
12 wrongfully benefit from the misconduct alleged herein.

13 175. In the exercise of reasonable care, the Individual Defendants should have
14 known that by misrepresenting or failing to disclose the foregoing material facts, the
15 statements contained in the Proxy Statements were materially false and misleading. The
16 misrepresentations and omissions were material to Plaintiff in voting on the matters set
17 forth for shareholder determination in the Proxy Statements, including but not limited to,
18 election of directors, ratification of an independent auditor, and the approval of the
19 Incentive Amendment Proposal.

20 176. The misrepresentations and omissions set forth herein were material to
21 shareholders in voting on the Incentive Amendment Proposal who would not have
22 approved, among other things, Defendants Gelfand's and Rosenberg's compensation
23 under the Incentive Amendment Proposal, had they been informed about the false and
24 misleading statements discussed herein. As a result of shareholder approval of the
25 Incentive Amendment Proposal, Defendants Gelfand and Rosenberg undeservedly
26 received approximately \$125,000 each in performance-based stock awards during the
27 2021 Fiscal Year.

177. The false and misleading elements of the 2021 Proxy Statement led to, among other things, the approval of the Incentive Amendment Proposal and the election or re-election of Defendants Boris, Olohan, and Quintero-Johnson to the Board, which allowed them to breach or continue to breach their fiduciary duties to Tattooed Chef.

178. The false and misleading elements of the 2022 Proxy Statement led to, among other things, the election or re-election of Defendants Fellner, Gelfand, and Williamson to the Board, which allowed them to breach or continue to breach their fiduciary duties to Tattooed Chef.

179. The Company was damaged as a result of the Individual Defendants' material misrepresentations and omissions in the Proxy Statements.

180. Plaintiff, on behalf of Tattooed Chef, has no adequate remedy at law.

SECOND CLAIM

Against Individual Defendants for Breach of Fiduciary Duties and/or Insider Selling

181. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above, as though fully set forth herein.

182. Each Individual Defendant owed to the Company the duty to exercise candor, good faith, and loyalty in the management and administration of Tattooed Chef's business and affairs.

183. Each of the Individual Defendants violated and breached his or her fiduciary duties of candor, good faith, loyalty, reasonable inquiry, oversight, and supervision.

184. The Individual Defendants' conduct set forth herein was due to their intentional or reckless breach of the fiduciary duties they owed to the Company, as alleged herein. The Individual Defendants intentionally or recklessly breached or disregarded their fiduciary duties to protect the rights and interests of Tattooed Chef.

185. In breach of their fiduciary duties owed to Tattooed Chef, the Individual Defendants willfully or recklessly caused the Company to make false and/or misleading statements and/or omissions of material fact that failed to disclose that: (1) the Company

1 continuously downplayed its serious problems with internal controls; (2) Tattooed Chef's
2 financial statements filed during the Relevant Period contained "certain errors" such as
3 overstating revenue and understating losses; and (3) due to this, the Company would need
4 to restate its previously filed financial statements for certain periods. As a result of the
5 foregoing, the Company's public statements were materially false and misleading and/or
6 lacked a reasonable basis at all relevant times.

7 186. The Individual Defendants further failed to correct and/or caused the
8 Company to fail to correct the false and/or misleading statements and/or omissions of
9 material fact, which renders them personally liable to the Company for breaching their
10 fiduciary duties.

11 187. Also in breach of their fiduciary duties, the Individual Defendants failed to
12 maintain internal controls.

13 188. In addition, Defendant Galletti further breached his fiduciary duties and was
14 unjustly enriched to the detriment of the Company by engaging in insider sales while in
15 possession of material nonpublic information pertaining to the Company's business.

16 189. The Individual Defendants had actual or constructive knowledge that they
17 had caused the Company to improperly engage in the fraudulent scheme set forth herein
18 and to fail to maintain internal controls. The Individual Defendants had actual knowledge
19 that the Company was engaging in the fraudulent scheme set forth herein, and that
20 internal controls were not adequately maintained, or acted with reckless disregard for the
21 truth, in that they caused the Company to improperly engage in the fraudulent scheme
22 and to fail to maintain adequate internal controls, even though such facts were available
23 to them. Such improper conduct was committed knowingly or recklessly and for the
24 purpose and effect of artificially inflating the price of Tattooed Chef's securities. The
25 Individual Defendants, in good faith, should have taken appropriate action to correct the
26 scheme alleged herein and to prevent it from continuing to occur.

1 190. These actions were not a good-faith exercise of prudent business judgment
 2 to protect and promote the Company's corporate interests.
 3

4 191. As a direct and proximate result of the Individual Defendants' breaches of
 5 their fiduciary obligations, Tattooed Chef has sustained and continues to sustain
 6 significant damages. As a result of the misconduct alleged herein, the Individual
 7 Defendants are liable to the Company.

8 192. Plaintiff, on behalf of Tattooed Chef, has no adequate remedy at law.

9 **THIRD CLAIM**

10 **Against Individual Defendants for Unjust Enrichment**

11 193. Plaintiff incorporates by reference and re-alleges each and every allegation
 12 set forth above, as though fully set forth herein.

13 194. By their wrongful acts, violations of law, and false and misleading
 14 statements and omissions of material fact that they made and/or caused to be made, the
 15 Individual Defendants were unjustly enriched at the expense of, and to the detriment of,
 16 Tattooed Chef.

17 195. The Individual Defendants either benefitted financially from the improper
 18 conduct, or received bonuses, stock options, or similar compensation from Tattooed Chef
 19 that was tied to the performance or artificially inflated valuation of Tattooed Chef, or
 20 received compensation or other payments that were unjust in light of the Individual
 21 Defendants' bad faith conduct.

22 196. Plaintiff, as a shareholder and a representative of Tattooed Chef, seeks
 23 restitution from the Individual Defendants and seeks an order from this Court disgorging
 24 all profits, including from insider transactions, benefits, and other compensation,
 25 including any performance-based or valuation-based compensation, obtained by the
 26 Individual Defendants due to their wrongful conduct and breach of their fiduciary and
 27 contractual duties.

28 197. Plaintiff, on behalf of Tattooed Chef, has no adequate remedy at law.

FOURTH CLAIM

Against Individual Defendants for Abuse of Control

198. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above, as though fully set forth herein.

199. The Individual Defendants' misconduct alleged herein constituted an abuse of their ability to control and influence Tattooed Chef, for which they are legally responsible.

200. As a direct and proximate result of the Individual Defendants' abuse of control, Tattooed Chef has sustained significant damages. As a direct and proximate result of the Individual Defendants' breaches of their fiduciary obligations of candor, good faith, and loyalty, Tattooed Chef has sustained and continues to sustain significant damages. As a result of the misconduct alleged herein, the Individual Defendants are liable to the Company.

201. Plaintiff, on behalf of Tattooed Chef, has no adequate remedy at law.

FIFTH CLAIM

Against Individual Defendants for Gross Mismanagement

202. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above, as though fully set forth herein.

203. By their actions alleged herein, the Individual Defendants, either directly or through aiding and abetting, abandoned and abdicated their responsibilities and fiduciary duties with regard to prudently managing the assets and business of Tattooed Chef in a manner consistent with the operations of a publicly-held corporation.

204. As a direct and proximate result of the Individual Defendants' gross mismanagement and breaches of duty alleged herein, Tattooed Chef has sustained and will continue to sustain significant damages.

205. As a result of the misconduct and breaches of duty alleged herein, the Individual Defendants are liable to the Company.

1 206. Plaintiff, on behalf of Tattooed Chef, has no adequate remedy at law.
2

3 **SIXTH CLAIM**
4

5 **Against Individual Defendants for Waste of Corporate Assets**
6

7 207. Plaintiff incorporates by reference and re-alleges each and every allegation
8 set forth above, as though fully set forth herein.
9

10 208. The Individual Defendants caused the Company to pay the Individual
11 Defendants excessive salaries and fees, to the detriment of the shareholders and the
12 Company.
13

14 209. As a result of the foregoing, and by failing to properly consider the interests
15 of the Company and its public shareholders, the Individual Defendants have caused
16 Tattooed Chef to waste valuable corporate assets, to incur many millions of dollars of
17 legal liability and/or costs to defend unlawful actions, to engage in internal investigations,
18 and to lose financing from investors and business from future customers who no longer
19 trust the Company and its products.
20

21 210. As a result of the waste of corporate assets, the Individual Defendants are
22 each liable to the Company.
23

24 211. Plaintiff, on behalf of Tattooed Chef, has no adequate remedy at law.
25

26 **SEVENTH CLAIM**
27

28 **Against Defendants Galletti and Dieckmann for Contribution
Under Sections 10(b) and 21D of the Exchange Act**

29 212. Plaintiff incorporates by reference and re-alleges each and every allegation
30 set forth above, as though fully set forth herein.
31

32 213. Tattooed Chef, Defendant Galletti, and Defendant Dieckmann are named as
33 defendants in the Securities Class Action, which asserts claims under the federal
34 securities laws for violations of Sections 10(b) and 20(a) of the Exchange Act, and SEC
35 Rule 10b-5 promulgated thereunder. If and when the Company is found liable in the
36 Securities Class Action for these violations of the federal securities laws, the Company's
37 liability will be in whole or in part due to Defendants Galletti's and Dieckmann's willful
38

and/or reckless violations of their obligations as controlling shareholder, officers and/or directors of Tattooed Chef.

214. Defendants Galletti and Dieckmann, because of their positions of control and authority as controlling shareholder, officers and/or directors of Tattooed Chef, were able to and did, directly and/or indirectly, exercise control over the business and corporate affairs of Tattooed Chef, including the wrongful acts complained of herein and in the Securities Class Action.

215. Accordingly, Defendants Galletti and Dieckmann are liable under 15 U.S.C. § 78j(b), which creates a private right of action for contribution, and Section 21D of the Exchange Act, 15 U.S.C. § 78u-4(f), which governs the application of a private right of action for contribution arising out of violations of the Exchange Act.

216. As such, the Company is entitled to receive all appropriate contribution or indemnification from Defendants Galletti and Dieckmann.

PRAYER FOR RELIEF

217. FOR THESE REASONS, Plaintiff demands judgment in the Company's favor against all Individual Defendants as follows:

(a) Declaring that Plaintiff may maintain this action on behalf of Tattooed Chef, and that Plaintiff is an adequate representative of the Company;

(b) Declaring that the Individual Defendants have breached and/or aided and abetted the breach of their fiduciary duties to Tattooed Chef;

(c) Determining and awarding to Tattooed Chef the damages sustained by it as a result of the violations set forth above from each of the Individual Defendants, jointly and severally, together with pre-judgment and post-judgment interest thereon;

(d) Directing Tattooed Chef and the Individual Defendants to take all necessary actions to reform and improve Tattooed Chef's corporate governance and internal procedures to comply with applicable laws and to protect Tattooed Chef and its shareholders from a repeat of the damaging events described herein, including, but not

1 limited to, putting forward for shareholder vote the following resolutions for amendments
2 to the Company's Bylaws or Certificate of Incorporation and the following actions as
3 may be necessary to ensure proper corporate governance policies:

4 1. a proposal to strengthen the Board's supervision of operations and
5 develop and implement procedures for greater shareholder input into the
6 policies and guidelines of the Board;

7 2. a provision to permit the shareholders of Tattooed Chef to nominate at
8 least five candidates for election to the Board; and

9 3. a proposal to ensure the establishment of effective oversight of
10 compliance with applicable laws, rules, and regulations.

11 (e) Awarding Tattooed Chef restitution from the Individual Defendants,
12 and each of them;

13 (f) Awarding Plaintiff the costs and disbursements of this action,
14 including reasonable attorneys' and experts' fees, costs, and expenses; and

15 (g) Granting such other and further relief as the Court may deem just and
16 proper.

17 **JURY TRIAL DEMANDED**

19 Plaintiff hereby demands a trial by jury.

20 Dated: March 17, 2023

21 Respectfully submitted,

22 **THE BROWN LAW FIRM, P.C.**

23 */s/ Robert C. Moest*

24 Robert C. Moest, Of Counsel, SBN 62166
25 2530 Wilshire Boulevard, Second Floor
26 Santa Monica, California 90403
27 Telephone: (310) 915-6628
28 Facsimile: (310) 915-9897
 Email: RMoest@aol.com

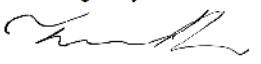
THE BROWN LAW FIRM, P.C.
Timothy Brown
767 Third Avenue, Suite 2501
New York, NY 10017
Telephone: (516) 922-5427
Facsimile: (516) 344-6204
Email: tbrown@thebrownlawfirm.net
shashmi@thebrownlawfirm.net

Counsel for Plaintiff

VERIFICATION

I, Terry Bassett Jr, am a plaintiff in the within action. I have reviewed the allegations made in this Shareholder Derivative Complaint, know the contents thereof, and authorize its filing. To those allegations of which I have personal knowledge, I believe those allegations to be true. As to those allegations of which I do not have personal knowledge, I rely upon my counsel and their investigation and believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 3/15/2023 day of _____, 2023.

DocuSigned by:

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